

Equal Opportunity Desk Manual

M 04-15
September 2001



**Washington State
Department of Transportation**

Equal Opportunity Desk Manual

M 04-15
September 2001



**Washington State
Department of Transportation**

Office of Equal Opportunity
Internal Civil Rights Branch



Alternate Formats: Persons with disabilities may request this information be prepared and supplied in alternate formats by calling the Washington State Department of Transportation ADA Accommodation Hotline collect 206-389-2839.

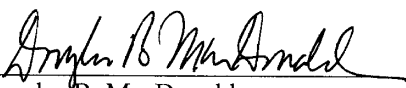
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AFFIRMATIVE EMPLOYMENT COMMITMENT

Our department serves citizens in every community, economic class and cultural group. The Washington State Department of Transportation will be in harmony with its social role only when our work environment reflects our broader social aspirations for equal opportunity, justice, personal dignity and cross-cultural respect. To that end, we must take personal responsibility for diversity in our organization and in our communities.

As Secretary of Transportation, on behalf of myself and all of our employees, I am committed to taking those affirmative action steps which will ensure equitable participation in our business and employment opportunities without regard to race, color, religion, sex, national origin, age, disability, veteran status, marital status or sexual orientation. All of us at WSDOT recognize that we must take positive actions to prevent and to remedy any discriminatory effects of business and employment practices.

We are committed to achieving a diverse workforce that is reflective of our communities through fair and effective implementation of our Affirmative Action Plan.


Douglas B. MacDonald
Secretary of Transportation

Comment Request Form

If you have questions or comments about the material contained in this desk manual, please use this form.

From: _____

Date: _____
Phone: _____

To: Office of Equal Opportunity
Internal Civil Rights Branch
Washington State Department of Transportation
310 Maple Park Avenue SE
PO Box 47314
Olympia, WA 98504-7314

Subject: *Equal Opportunity Desk Manual*

Comment (marked copies attached):

Preserve this original for future use • Submit copies only

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Chapter 1

Equal Opportunity, Affirmative Action, and Freedom From Discrimination and Sexual Harassment

I. Introduction

A. Purpose

This chapter is to inform Washington State Department of Transportation (WSDOT) employees of the department's policies, plans, rules, and procedures to:

1. Ensure we each participate in providing equal opportunity and affirmative action in our workplaces.
2. Ensure we each participate in a workplace that is free from harassment, including sexual harassment.

B. Basis of Authority

1. This chapter supports Title VII of the United States Civil Rights Act of 1964 as amended, the Washington State Law Against Discrimination RCW 49.60, and rulings of the U.S. Equal Employment Opportunity Commission.
2. Executive Order E 1014.00, *Equal Opportunity, Affirmative Action, and Freedom from Discrimination and Sexual Harassment*, creates policies and directs action to carry out equal opportunity, affirmative action, and freedom from discrimination, harassment, sexual harassment, and retaliation activities at WSDOT.
3. Policy Number P 2007.00, *Equal Opportunity and Affirmative Action*, states, "It is the policy of the Washington State Department of Transportation (WSDOT) to provide equal opportunity for the employment, development, and advancement of all persons."
4. Policy Number P 2008.00, *Freedom from Discrimination*, states, "It is the policy of the WSDOT to provide and maintain a workplace that is free from all forms of discrimination (including harassment), based on race, color, creed, religion, gender, national origin, age, sexual orientation, marital status, families with children, use of a trained dog guide or service animal by a disabled person, Vietnam-era Veteran or disabled Veteran status, or the presence of a physical, mental, emotional or sensory disability."
5. Policy Number P 2009.00, *Freedom from Sexual Harassment*, states, "It is the policy of the Washington State Department of Transportation (WSDOT) to provide and maintain a workplace that is free from all forms of sexual harassment."

II. Equal Opportunity Through Affirmative Action

A. Affirmative Action Program

WSDOT promotes the full realization of equal employment opportunity through a continuing affirmative action program throughout the department. This applies to, and must be an integral part of, every aspect of personnel policy and practice in the employment, development, advancement, and treatment of employees of this department, to the extent permitted by law.

B. Resources Provided by the Office of Equal Opportunity

WSDOT's Office of Equal Opportunity (OEO) has developed, and periodically updates, a comprehensive Affirmative Action Plan to initiate and sustain employment, training, and career development opportunities for persons who have been historically under-represented in state employment. A copy of WSDOT's current Affirmative Action Plan is available in each region's Human Resource Office, OEO, and on the OEO web page.

III. Definitions and Examples

A. Discrimination — Definition

Discrimination is the act of treating a person, or group of people, differently based on preconceived stereotypes based on race, creed, color, religion, sex, national origin, age, sexual orientation, marital status, Vietnam-era Veteran status, disabled veteran status, or the presence of a physical, mental, emotional, or sensory disability.

Discrimination — Examples

Examples of discrimination include, but are not limited to:

1. Failure to promote a person, even though they are the best qualified, because of their race or gender.
2. Paying someone less than people of the opposite gender even though they are performing the same work.

B. Harassment — Definition

Harassment, a form of discrimination, consists of unwelcome verbal, physical, or visual conduct that is based on a person's race, color, national origin, creed, religion, age, sex, sexual orientation, marital status, Vietnam-era Veteran status, disabled Veteran status, or the presence of a physical, mental, emotional, or sensory disability (real or perceived). WSDOT does not tolerate harassment that creates an uncomfortable, intimidating, hostile, or offensive work environment, and/or that unreasonably affects an individual's work performance.

Harassment not only consists of blatant offensive behavior, but may include subtle acts or comments as well. Derogatory comments, jokes, and slurs of a racial, sexual, ethnic, or religious nature or those that refer to an individual's sexual orientation or disability can also be considered harassing and/or discriminatory.

Harassment — Examples

Examples of conduct that are considered discriminatory or harassing, and provide grounds for disciplinary action, up to and including termination, under the provisions of WAC 356-34, include but are not limited to:

1. Offensive, insulting, or degrading remarks based on an individual's race, color, national origin, creed, religion, age, sex, sexual orientation, marital status, Vietnam-era Veteran status, disabled veteran status, or the presence of a physical, mental, emotional, or sensory disability (real or perceived).
2. Threats, demands, or suggestions that an employee's work status is contingent upon the employee's tolerance of, or acquiescence to any of the above conduct is prohibited by this policy.
3. Harassment which has the purpose or effect of unreasonably interfering with an individual's work performance or which creates an uncomfortable, intimidating, hostile, or offensive work environment.

Examples of such harassment include, but are not limited to:

- a. Telling racist, sexist, or disability related jokes while at work;
- b. Use of racially or sexually oriented language considered by a reasonable person to be derogatory; or
- c. The placement or display in the work place of racially or sexually explicit photographs, cartoons, posters, or other visual items which a reasonable person would find offensive.

C. Sexual Harassment — Definition

Sexual harassment is defined as unwelcome conduct of a sexual nature, such as, sexual advances, requests for sexual favors, and other physical, verbal, or visual conduct of a sexual nature or harassing behavior(s) such as threatening, demeaning, or offensive conduct whether or not sexual in connotation, that is directed toward an individual based on gender when:

1. Submission to such conduct is made, either explicitly or implicitly, a term or condition of an individual's employment; or,
2. Submission to, or rejection of, such conduct by an individual is used as the basis for employment decisions affecting the individual; or,
3. Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive work environment.

Sexual Harassment — Examples

1. This policy addresses sexual harassment by a person of either sex against a person of either sex. Examples of explicit sexual harassment behaviors include, but are not limited to:
 - a. Sexual propositions.
 - b. Displays of foul, obscene, or seductive printed or visual material.
 - c. Sexual slurs, foul or obscene language, or gestures of a sexual nature.

- d. Sexual innuendoes, suggestive comments, sexually oriented kidding or teasing, practical jokes of a sexual nature, jokes about gender-specific traits.
 - e. Leering and physical conduct such as patting, pinching, brushing, or touching another's body when such conduct is deemed offensive by the recipient.
 - f. Intimidating, demeaning, offensive behavior based on an individual's gender, such as, a female sabotaging the work of a male co-worker because the co-worker is a male.
2. Example of subtle sexual harassment behavior:

Subtle acts of sexual harassment include, but are not limited to, inappropriate language, jokes, or comments of a sexual nature. An example of this type of sexual harassment is when individuals of one gender are referred to by their names, while employees of the opposite gender are referred to by terms of endearment such as honey, darling, and sweetheart.

D. Retaliation — Definition

In general, retaliation occurs when an individual suffers an adverse employment action based on his or her participation in a statutorily protected activity constituting opposition to his or her employer.

Retaliation — Examples

Examples of retaliatory acts include, but are not limited to:

1. Giving unreasonable assignments or time frames in which to complete assignments.
2. Intentionally treating someone differently after they tell you your behavior is offensive.
3. Arbitrarily denying time off or other legitimate employee benefits, etc.

IV. Rules

A. Equal Opportunity Provided

WSDOT provides equal opportunity in employment for all persons.

B. Discrimination Prohibited

WSDOT prohibits discrimination in employment because of:

1. Race
2. Color
3. Creed
4. Religion
5. Gender
6. National origin
7. Age

8. Sexual orientation
9. Marital status
10. Vietnam-era Veteran status
11. Disabled Veteran status
12. Presence of a physical, mental, emotional, or sensory disability.

C. Freedom From Sexual Harassment

1. WSDOT will not tolerate sexual harassment of its employees by anyone, including any manager, supervisor, coworker, vendor, client, nonemployee or customer.
2. WSDOT will not tolerate sexual harassment of any individual by a WSDOT employee when that employee is engaged in business activities, conducting business for, or is being compensated for their time by WSDOT.

D. Freedom From Retaliation

WSDOT will not tolerate retaliation against any complainant or person who participates in an investigation into any allegations.

E. Disciplinary Action

Failure on the part of any WSDOT employee to carry out the spirit and intent of this chapter will be cause for disciplinary action, up to and including dismissal. Please refer to the *Human Resource Desk Manual*, M 3009.00, Tab 12 "Corrective Action." The appointing authority of the employee must coordinate formal corrective action with the Human Resource Office.

F. Executive Responsibilities

The executive manager of each region, service center, and division is responsible for establishing and maintaining an affirmative program of equal employment opportunity for all employees and applicants for employment, and to prevent and stop any sexual harassment, within his or her jurisdiction. This executive is required, to the maximum extent possible, to provide sufficient resources to:

1. Administer such a program in a positive and effective manner.
2. Assure that recruitment activities reach all sources of job candidates.
3. Utilize to the fullest extent the present skills of each employee.
4. Provide the maximum feasible opportunity to employees to enhance their skills so that they may perform at their highest potential and advance in accordance with their abilities.
5. Provide training and advice to managers and supervisors to assure their understanding and implementation of affirmative action and equal opportunity.
6. Provide for periodic reviews to evaluate the effectiveness with which this program is being carried out in his or her organization.

G. Manager and Supervisor Responsibilities

1. Managers and supervisors must immediately take corrective action to stop any behavior that is considered discrimination, harassment, sexual harassment, or retaliation.
2. Employers, such as WSDOT, can be held liable for behavior that is considered discrimination, harassment, sexual harassment, or retaliation, when a manager or supervisor knew — or should have known — about an incident, and failed to take immediate and appropriate action to ensure the offense did not reoccur.
3. Managers and supervisors must immediately report any incidents of sexual harassment to OEO, so that an investigation by that office can be initiated.

H. Office of Equal Opportunity Responsibilities

1. OEO will respond to complaints of discrimination, harassment, sexual harassment, and retaliation in a timely manner.
2. Once an incident is reported, OEO will provide guidance and assistance to the manager or supervisor in resolving the situation. If needed, OEO will also conduct an investigation into the complaint and provide the manager with the investigative results.
3. OEO is required by law to conduct an investigation of any incidents of sexual harassment.
4. For incidents other than sexual harassment, the person who it is alleged has been subjected to discrimination, harassment, or retaliation must request an investigation before OEO can proceed.
4. During the course of investigating a complaint, confidentiality will be maintained to the greatest extent possible in order to prevent embarrassment, further harassment, or retaliation.
5. Once a complaint has been investigated and finalized, investigative documents may be subject to public disclosure as defined in RCW 42.17.310 (1) (dd) and (ee), Public Records - Certain Personal and Other Records Exempt.

I. Employee Responsibilities

1. All WSDOT employees are responsible for providing a cooperative working environment for each other.
2. No form of discrimination, harassment, sexual harassment, or retaliation against any employee will be tolerated.
3. The quickest, and normally most effective option is to simply tell the offender about his or her behavior, explain what they are doing that disturbs you, and ask that this behavior be stopped.
4. If you do not wish to confront the offender, if you have confronted the offender and the offensive behavior has not stopped, or if you believe your complaint has, or will, result in retaliation, you may use the informal or formal process described in Chapter 6 of this manual.

V. Procedures

A. Initial Communication

The individual who feels they were subjected to discrimination, harassment, sexual harassment, or retaliation as defined above may tell the offender directly that they find the behavior offensive.

If the individual does not feel comfortable telling the offender directly, or if telling the offender does not stop the offensive behavior, they are advised to immediately report the incident to one of the following individuals:

1. Own immediate supervisor.
2. The offender's immediate supervisor.
3. The appointing authority.
4. The Human Resource Officer or Personnel Representative.
5. The Region Human Resource Consultant.
6. The WSDOT Office of Equal Opportunity (OEO).

Other options available for reporting allegations of discrimination, harassment, sexual harassment, and retaliation include filing of a complaint with the Washington State Human Rights Commission, with the United States Equal Employment Opportunity Commission, or seeking legal counsel.

B. Follow Up

OEO will coordinate the process of investigating complaints of discrimination, harassment, sexual harassment, and retaliation. OEO will advise the parties involved of the process and the findings.

C. Education and Training

WSDOT is committed to keeping the workforce informed regarding its policies on affirmative action, equal opportunity, non-discrimination, and freedom from harassment and sexual harassment. To that end, OEO will provide Workforce Diversity training for all employees to include managers and supervisors. Additionally, managers and supervisors will be required to attend periodic training updates to ensure they are aware changing laws and court decisions.

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Attachment 1 Secretary's Statement on Discrimination and Harassment

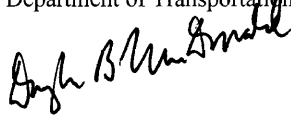


**Washington State
Department of Transportation**

Memorandum

September 14, 2001

TO: All Employees of Washington State Department of Transportation
(WSDOT)

FROM: Douglas B. MacDonald 

SUBJECT: Secretary's Commitment to Equal Opportunity and to a Workplace Free
from Discrimination and Harassment

I am committed to ensuring that WSDOT provides equal opportunity, affirmative action, and freedom from discrimination and harassment in our workplaces. To provide guidance in these policy areas, I am reissuing:

Executive Order E 1014.00, Equal Opportunity, Affirmative Action, and Freedom from Discrimination and Sexual Harassment

Policy Statement P 2007.00, Equal Opportunity and Affirmative Action

Policy Statement P 2008.00, Freedom from Discrimination

Policy Statement P 2009.00, Freedom from Sexual Harassment

Equal Opportunity Desk Manual M 04-15, Chapter 1 Revised, "Equal Opportunity, Affirmative Action, and Freedom from Discrimination and Sexual Harassment"

Supervisors and managers are expected to take a firm lead in setting a management tone that clearly supports a work environment free from discrimination. Employees are expected to support and promote non-discrimination and equal opportunity within their work environment.

To ensure WSDOT employees receive this message, I am distributing these policies via bulk e-mail and the Intranet, and including them in the *Equal Opportunity Desk Manual M 04-15* revision. Each supervisor and manager needs to ensure current and future employees read and understand this information.

Thank you for your commitment to ensure that we all make WSDOT a place we are proud to work.

DOT Form 700-008 EF
Revised 5/99

Attachment 2 Executive Order E 1014.00 Transmittal



Washington State
Department of Transportation

Publications Transmittal

Transmittal Number	Date
01-050	September 14, 2001

Commission Administrator 47308	Director, Planning and Capital Program Management 47370
Secretary of Transportation 47316	Director, Public Transportation and Rail 47387
Chief of Staff 47316	Director, Transportation Economic Partnerships
Assistant Secretary, Administration & Support 47400	Director, Washington State Ferries TB32
Assistant Secretary, Eng. & Reg. Operations 47316	Deputy Director, Washington State Ferries TB32
Assistant Secretary, NW Ops. & Project Delivery NB82	Region Administrator, Eastern Region
Director, Audit Office 47320	Region Administrator, North Central Region
Director, Aviation Division TB25	Region Administrator, Northwest Region NB82
Director, Communications and Public Involvement 47322	Region Administrator, Olympic Region 47440
Director, Congestion Relief Project Delivery NB82	Region Administrator, South Central Region
Director, Engineering & Environmental Programs 47323	Region Administrator, Southwest Region S15
Director, Equal Opportunity Office 47314	Ombudsman 47322
Director, Freight Strategy and Policy 47370	Chief Counsel 40113
Director, Highways and Local Programs 47390	Legislative Transportation Committee 40937
Director, Human Resources Office 47310	State Auditor 40046
Director, Legislative & Strategic Mgmt. Relations 47318	FHWA 40943
Director, Maintenance and Operations Programs 47350	

Publication Title	Publication Number
Equal Opportunity, Affirmative Action, and Freedom from Discrimination and Sexual Harassment Executive Order	E 1014.00
Originating Organization	
Office of the Secretary	
Equal Opportunity Office	

Remarks and Instructions

Executive Order Reissued

The attached Executive Order E 1014.00 dated September 14, 2001, supersedes and replaces Executive Order E1014.00 with the same title dated March 1, 2000. Please recycle the old copies. This Executive Order is being reissued to inform all employees of Secretary MacDonald's commitment to equal opportunity, affirmative action, and freedom from discrimination and sexual harassment.

Keep Employees Informed

In addition to the standard distribution above, this was distributed to all WSDOT employees via e-mail and the Intranet. Please consider your organization's need to provide copies to those employees who do not have e-mail or Intranet access, and post a copy on major bulletin boards.

For More Information

If you have questions or concerns regarding this Executive Order, please contact your local personnel representative, or the Equal Opportunity Office at (360) 705-7090.

Access on line at <http://wwwi.wsdot.wa.gov/docs/OperatingRulesProcedures/1014.pdf>

Distributed By	Phone Number	Signature
Paula Hammond, Chief of Staff	(360) 705-7871	

DOT Form 761-003 EF
Revised 5/98

cc: Administrative Services, Directional Documents MS 47408

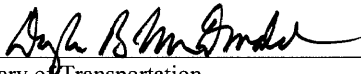
Attachment 3 Executive Order E 1014.00



**Washington State
Department of Transportation**

Executive Order

Number: E 1014.00


Secretary of Transportation

Date: September 14, 2001

Equal Opportunity, Affirmative Action, and Freedom from Discrimination and Sexual Harassment

This Executive Order is issued to inform Washington State Department of Transportation (WSDOT) employees of the department's policies, plans, rules, and procedures to ensure we each provide equal opportunity, affirmative action, and freedom from discrimination and harassment in our work places.

Policies Reissued

The following department policies are reissued with this Executive Order:

Policy Number P 2007.00, Equal Opportunity and Affirmative Action: It is the policy of the WSDOT to provide equal opportunity for the employment, development, and advancement of all persons.

Policy Number P 2008.00, Freedom from Discrimination: It is the policy of the WSDOT to provide and maintain a work place that is free from all forms of discrimination (including harassment), based on race, color, creed, religion, gender, national origin, age, sexual orientation, marital status, families with children, use of a trained dog guide or service animal by a disabled person, Vietnam-era Veteran or disabled Veteran status, or the presence of a physical, mental, emotional or sensory disability.

Policy Number P 2009.00, Freedom from Sexual Harassment: It is the policy of the WSDOT to provide and maintain a work place that is free from all forms of sexual harassment.

These Policy Statements support Title VII of the United States Civil Rights Act of 1964 as amended, the Washington State Law Against Discrimination RCW 49.60, and rulings of the Equal Employment Opportunity Commission.

E 1014.00
Equal Opportunity, Affirmative Action, and
Freedom from Discrimination and Sexual Harassment
September 14, 2001

Office of Equal Opportunity Role and Responsibilities

The director and staff of the Office of Equal Opportunity are the department's experts on these topics. They develop, maintain, and distribute information such as the department's *Affirmative Action Plan*, and the *Equal Opportunity Desk Manual* M 04-15, which include detailed rules and procedures on how to carry out this Executive Order.

Executive Manager Role and Responsibilities

Each executive manager must establish and maintain an affirmative action program within the organization (region, service center, or division) he or she is responsible for. Executive managers or their designees must ensure that this executive order is read and understood by all employees within the executive's organization.

Employee Role and Responsibilities

All employees are expected to read and understand this Executive Order and its Policy Statements. We must all work together to create and maintain work places that are free from discrimination and harassment.

Distribution

This Executive Order and these Policy Statements will be sent to the standard department statewide distribution list. This includes the Transportation Commission, the Executive Board, and all organizations within the department. They are available on line, in the Equal Opportunity Office, and in all WSDOT Human Resource and Personnel Offices to ensure access by all employees.

Alternate Formats: Persons with disabilities may request this information be prepared and supplied in alternate formats by calling the WSDOT ADA Accommodation Hotline collect 206-389-2839. Persons with hearing impairments may access WA State Telecommunications Relay Service at TT 1-800-833-6388, Tele-Braille 1-800-833-6385, or Voice 1-800-833-6384, and ask to be connected to (360) 705-7097.

Attachment 4 **Equal Opportunity and Affirmative Action
Policy Statement Transmittal**



**Washington State
Department of Transportation**

Publications Transmittal

Transmittal Number	Date
01-051	September 14, 2001

Commission Administrator 47308
Secretary of Transportation 47316
Chief of Staff 47316
Assistant Secretary, Administration & Support 47400
Assistant Secretary, Eng. & Reg. Operations 47316
Assistant Secretary, NW Ops. & Project Delivery NB82
Director, Audit Office 47320
Director, Aviation Division TB25
Director, Communications and Public Involvement 47322
Director, Congestion Relief Project Delivery NB82
Director, Engineering & Environmental Programs 47323
Director, Equal Opportunity Office 47314
Director, Freight Strategy and Policy 47370
Director, Highways and Local Programs 47390
Director, Human Resources Office 47310
Director, Legislative & Strategic Mgmt. Relations 47318
Director, Maintenance and Operations Programs 47350

Director, Planning and Capital Program Management 47370
Director, Public Transportation and Rail 47387
Director, Transportation Economic Partnerships
Director, Washington State Ferries TB32
Deputy Director, Washington State Ferries TB32
Region Administrator, Eastern Region
Region Administrator, North Central Region
Region Administrator, Northwest Region NB82
Region Administrator, Olympic Region 47440
Region Administrator, South Central Region
Region Administrator, Southwest Region S15
Ombudsman 47322
Chief Counsel 40113
Legislative Transportation Committee 40937
State Auditor 40046
FHWA 40943

Publication Title	Publication Number
Equal Opportunity and Affirmative Action	P 2007.00
Originating Organization Office of the Secretary Equal Opportunity Office	

Remarks and Instructions

Policy Statement Reissued

The attached Policy Statement P 2007.00 dated September 14, 2001, supersedes and replaces Policy Statement P 2007.00 with the same title dated March 1, 2000. Please recycle the old copies. This Executive Order is being reissued to inform all employees of Secretary MacDonald's commitment to equal opportunity and affirmative action.

Keep Employees Informed

In addition to the standard distribution above, this was distributed to all WSDOT employees via e-mail and the Intranet. Please consider your organization's need to provide copies to those employees who do not have e-mail or Intranet access, and post a copy on major bulletin boards.

For More Information

If you have questions or concerns regarding this Executive Order, please contact your local personnel representative, or the Equal Opportunity Office at (360) 705-7090.

Access on line at <http://wwwi.wsdot.wa.gov/docs/OperatingRulesProcedures/1014.pdf>

Distributed By	Phone Number	Signature
Paula Hammond, Chief of Staff	(360) 705-7871	

DOT Form 761-003 EF
Revised 5/98

cc: Administrative Services, Directional Documents MS 47408

Attachment 5 **Equal Opportunity and Affirmative Action Policy Statement**



**Washington State
Department of Transportation**

Policy Statement

Number: P 2007.00


Secretary of Transportation

Date: September 14, 2001

Equal Opportunity and Affirmative Action

Statement of Policy:

It is the policy of the Washington State Department of Transportation (WSDOT) to provide equal opportunity for the employment, development, and advancement of all persons.

Resources and Additional Information:

This Policy Statement supports:

- Title VII of the United States Civil Rights Act of 1964 as amended
- The Washington State Law Against Discrimination RCW 49.60
- Rulings of the Equal Employment Opportunity Commission.

Rules, procedures, and other information on how to carry out this policy are available from the WSDOT Equal Opportunity Office and include:

- *WSDOT Affirmative Action Plan*
- *OEO Equal Opportunity Desk Manual M 04-15*
- Executive Order E 1014.00, *Equal Opportunity, Affirmative Action, and Freedom from Discrimination and Sexual Harassment*

Alternate Formats: Persons with disabilities may request this information be prepared and supplied in alternate formats by calling the WSDOT ADA Accommodation Hotline collect 206-389-2839. Persons with hearing impairments may access WA State Telecommunications Relay Service at TT 1-800-833-6388, Tele-Braille 1-800-833-6385, or Voice 1-800-833-6384, and ask to be connected to (360) 705-7097.

Attachment 6 Freedom From Discrimination Transmittal



Washington State
Department of Transportation

Publications Transmittal

Transmittal Number	Date
01-052	September 14, 2001

Commission Administrator 47308	Director, Planning and Capital Program Management 47370
Secretary of Transportation 47316	Director, Public Transportation and Rail 47387
Chief of Staff 47316	Director, Transportation Economic Partnerships
Assistant Secretary, Administration & Support 47400	Director, Washington State Ferries TB32
Assistant Secretary, Eng. & Reg. Operations 47316	Deputy Director, Washington State Ferries TB32
Assistant Secretary, NW Ops. & Project Delivery NB82	Region Administrator, Eastern Region
Director, Audit Office 47320	Region Administrator, North Central Region
Director, Aviation Division TB25	Region Administrator, Northwest Region NB82
Director, Communications and Public Involvement 47322	Region Administrator, Olympic Region 47440
Director, Congestion Relief Project Delivery NB82	Region Administrator, South Central Region
Director, Engineering & Environmental Programs 47323	Region Administrator, Southwest Region S15
Director, Equal Opportunity Office 47314	Ombudsman 47322
Director, Freight Strategy and Policy 47370	Chief Counsel 40113
Director, Highways and Local Programs 47390	Legislative Transportation Committee 40937
Director, Human Resources Office 47310	State Auditor 40046
Director, Legislative & Strategic Mgmt. Relations 47318	FHWA 40943
Director, Maintenance and Operations Programs 47350	

Publication Title	Publication Number
Freedom from Discrimination	P 2008.00
Originating Organization Office of the Secretary Equal Opportunity Office	

Remarks and Instructions

Policy Statement Reissued

The attached Policy Statement P 2008.00 dated September 14, 2001, supersedes and replaces Policy Statement P 2008.00 with the same title dated March 1, 2000. Please recycle the old copies. This Executive Order is being reissued to inform all employees of Secretary MacDonald's commitment to freedom from discrimination.

Keep Employees Informed

In addition to the standard distribution above, this was distributed to all WSDOT employees via e-mail and the Intranet. Please consider your organization's need to provide copies to those employees who do not have e-mail or Intranet access, and post a copy on major bulletin boards.

For More Information

If you have questions or concerns regarding this Executive Order, please contact your local personnel representative, or the Equal Opportunity Office at (360) 705-7090.

Access on line at <http://wwwi.wsdot.wa.gov/docs/OperatingRulesProcedures/1014.pdf>

Distributed By	Phone Number	Signature
Paula Hammond, Chief of Staff	(360) 705-7871	

DOT Form 761-003 EF
Revised 5/98

cc: Administrative Services, Directional Documents MS 47408

Attachment 7 Freedom From Discrimination Policy Statement



**Washington State
Department of Transportation**

Policy Statement

Number: P 2008.00


Secretary of Transportation

Date: September 14, 2001

Freedom From Discrimination

Statement of Policy:

It is the policy of the WSDOT to provide and maintain a work place that is free from all forms of discrimination (including harassment), based on race, color, creed, religion, gender, national origin, age, sexual orientation, marital status, families with children, use of a trained dog guide or service animal by a disabled person, Vietnam-era Veteran or disabled Veteran status, or the presence of a physical, mental, emotional or sensory disability.

Resources and Additional Information

This Policy Statement supports:

- Title VII of the United States Civil Rights Act of 1964 as amended
- The Washington State Law Against Discrimination RCW 49.60
- Rulings of the Equal Employment Opportunity Commission.

Rules, procedures, and other information on how to carry out this policy are available from the WSDOT Equal Opportunity Office and include:

- *WSDOT Affirmative Action Plan*
- *OEO Equal Opportunity Desk Manual M 04-15*
- Executive Order E 1014.00, *Equal Opportunity, Affirmative Action, and Freedom from Discrimination and Sexual Harassment*

Alternate Formats: Persons with disabilities may request this information be prepared and supplied in alternate formats by calling the WSDOT ADA Accommodation Hotline collect 206-389-2839. Persons with hearing impairments may access WA State Telecommunications Relay Service at TT 1-800-833-6388, Tele-Braille 1-800-833-6385, or Voice 1-800-833-6384, and ask to be connected to (360) 705-7097.

Attachment 8 Freedom From Sexual Harassment Transmittal



**Washington State
Department of Transportation**

Publications Transmittal

Transmittal Number	Date
01-053	September 14, 2001

Commission Administrator 47308 Secretary of Transportation 47316 Chief of Staff 47316 Assistant Secretary, Administration & Support 47400 Assistant Secretary, Eng. & Reg. Operations 47316 Assistant Secretary, NW Ops. & Project Delivery NB82 Director, Audit Office 47320 Director, Aviation Division TB25 Director, Communications and Public Involvement 47322 Director, Congestion Relief Project Delivery NB82 Director, Engineering & Environmental Programs 47323 Director, Equal Opportunity Office 47314 Director, Freight Strategy and Policy 47370 Director, Highways and Local Programs 47390 Director, Human Resources Office 47310 Director, Legislative & Strategic Mgmt. Relations 47318 Director, Maintenance and Operations Programs 47350	Director, Planning and Capital Program Management 47370 Director, Public Transportation and Rail 47387 Director, Transportation Economic Partnerships Director, Washington State Ferries TB32 Deputy Director, Washington State Ferries TB32 Region Administrator, Eastern Region Region Administrator, North Central Region Region Administrator, Northwest Region NB82 Region Administrator, Olympic Region 47440 Region Administrator, South Central Region Region Administrator, Southwest Region S15 Ombudsman 47322 Chief Counsel 40113 Legislative Transportation Committee 40937 State Auditor 40046 FHWA 40943
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Publication Title	Publication Number
Freedom from Sexual Harassment	P 2009.00
Originating Organization Office of the Secretary Equal Opportunity Office	

Remarks and Instructions

Policy Statement Reissued

The attached Policy Statement P 2009.00 dated September 14, 2001, supersedes and replaces Policy Statement P 2009.00 with the same title dated March 1, 2000. Please recycle the old copies. This Executive Order is being reissued to inform all employees of Secretary MacDonald's commitment to freedom from sexual harassment.

Keep Employees Informed

In addition to the standard distribution above, this was distributed to all WSDOT employees via e-mail and the Intranet. Please consider your organization's need to provide copies to those employees who do not have e-mail or Intranet access, and post a copy on major bulletin boards.

For More Information

If you have questions or concerns regarding this Executive Order, please contact your local personnel representative, or the Equal Opportunity Office at (360) 705-7090.

Access on line at <http://wwwi.wsdot.wa.gov/docs/OperatingRulesProcedures/1014.pdf>

Distributed By	Phone Number	Signature
Paula Hammond, Chief of Staff	(360) 705-7871	

DOT Form 761-003 EF
Revised 5/98

cc: Administrative Services, Directional Documents MS 47408

Attachment 9 Freedom From Sexual Harassment Policy Statement



**Washington State
Department of Transportation**

Policy Statement

Number: P 2009.00


Secretary of Transportation

Date: September 14, 2001

Freedom from Sexual Harassment

Statement of Policy:

It is the policy of the Washington State Department of Transportation (WSDOT) to provide and maintain a work place that is free from all forms of sexual harassment.

Resources and Additional Information

This Policy Statement supports:

- Title VII of the United States Civil Rights Act of 1964 as amended
- The Washington State Law Against Discrimination RCW 49.60
- Rulings of the Equal Opportunity Commission.

Rules, procedures, and other information on how to carry out this policy are available from the WSDOT Equal Opportunity Office and include:

- *WSDOT Affirmative Action Plan*
- *Equal Opportunity Office Desk Manual M 04-15*
- Executive Order E 1014.00, *Equal Opportunity, Affirmative Action, and Freedom from Discrimination and Sexual Harassment*

Alternate Formats: Persons with disabilities may request this information be prepared and supplied in alternate formats by calling the WSDOT ADA Accommodation Hotline collect 206-389-2839. Persons with hearing impairments may access WA State Telecommunications Relay Service at TT 1-800-833-6388, Tele-Braille 1-800-833-6385, or Voice 1-800-833-6384, and ask to be connected to (360) 705-7097.

Attachment 10 Equal Opportunity Desk Manual Transmittal



**Washington State
Department of Transportation**

Publications Transmittal

Transmittal Number		Date
01-049		September 14, 2001

Equal Opportunity Desk Manual Holders

Publication Title	Publication Number
Equal Opportunity Desk Manual	M 04-15
Originating Organization	
Office of Equal Opportunity	

Remarks and Instructions

Attached is the revision to the existing manual. Please recycle old copies of this manual. For more information, please contact Enrique Cantu at (360) 705-7096. This information is available on-line at the Office of Equal Opportunity Intranet Web Site and bulk mail.

Distributed By	Phone Number	Signature
Enrique Cantu	(360) 705-7096	

DOT Form 761-003 EF
Revised 5/98

cc: Administrative Services, Directional Documents MS 47408

Purpose and Scope

The federal government, over a number of years, has passed numerous civil rights laws protecting individuals from discrimination and harassment based on race, color, sex, religion, creed, age, national origin, marital status, disability status, and veterans status.

Even before the federal government took this action, the Washington State Legislature passed RCW 49.60, the Washington State Law Against Discrimination. Over the years, this law has been amended to include protection against discrimination and harassment based on race, creed, color, national origin, families with children, sex, marital status, age, or the presence of any sensory, mental, or physical disability or the use of a trained guide dog or service animal by a disabled person. Washington also has Executive Order 93-07 protecting persons from discrimination or harassment based on sexual orientation.

The Washington State Department of Transportation (WSDOT) prohibits any type of inappropriate behavior that could be considered harassment. However, this chapter is limited to the unlawful forms of harassment (i.e., sexual, racial, ethnic, religious, etc.) prohibited by the various civil rights laws outlined at the end of this chapter.

The department is committed to creating and maintaining a work environment in which all employees are treated respectfully and are free from discrimination and harassment due to race, creed, religion, color, national origin, age, sex, sexual orientation, marital status, status as a disabled or Vietnam-era veteran, or the presence of any form of disability. To this end, all employees are expected to refrain from discriminatory or harassing behavior in the workplace and at department-sponsored events, and to comply with department rules and procedures.

The department procedure for reporting and resolving discrimination or harassment complaints based on protected status is designed to encourage employees to report incidents as soon as they occur. The Washington State Department of Transportation (WSDOT) Office of Equal Opportunity (OEO) has been given the authority to conduct all investigations into alleged violations of civil rights. All complaints will be promptly, thoroughly, and respectfully handled. Complaints and resolutions will be handled as discretely as possible. Moreover, retaliation will not be tolerated against any person who reports alleged violations of discrimination or harassment or participates in a subsequent investigation and resolution.

When the appointing authority makes a determination that discrimination or harassment has occurred based on a person's protected group status, appropriate corrective action will be taken. Corrective action is determined by the seriousness of the infraction, the number, nature, and seriousness of previous infractions and the severity of previous corrective actions imposed. Please refer to the WSDOT *Human Resource Desk Manual*, M 3009.00, "Corrective Action" chapter for more detailed information.

Authority of the Office of Equal Opportunity

By authority of the Secretary of Transportation, for the purpose of fulfilling official duties, the Director of OEO and associated staff are authorized to have free and unrestricted access to all internal records, including but not limited to financial, personnel, and administrative documents, equipment, facilities, and employees, for the purpose of conducting investigations.

In addition, representatives of the office will have access to all applicable records of parties having contractual agreements for providing goods or services, or who are the recipient of funding, either direct or indirectly provided by the agency, subject to contractual and statutory language covering those activities, for the purposes of conducting investigations.

Responsibilities

WSDOT's OEO, acting on behalf of the Secretary of Transportation, is charged with a role as consultant, educator, information resource and policy analyst advisor, as well as maintaining a program of internal and external civil rights.

In fulfilling these responsibilities, the Director of OEO is responsible for the development of procedures necessary to carry out this complete program, including advising executive management of their responsibilities and duties when responding to the various investigations, evaluations, consultations, and analyses conducted by the office.

It is the responsibility of the Director of OEO to ensure that appropriate rules and procedures are established, so as to comply with Governor Locke's Executive Order 98-02, Training and Protocols for State Investigators.

It is the responsibility of the Director of OEO to ensure that all Reports of Investigations (ROI) conform to the highest standards of ethical conduct.

It is the responsibility of the Director of OEO to ensure all investigations will be conducted impartially and free of any impediment or obstruction by any employee of this agency.

It is the responsibility of the Director of OEO to ensure all complaints and/or allegations made will be assigned a case number, so as to provide a system of accountability and tractability.

It is the responsibility of the investigator to submit an independent and impartial report with respect to the established fact of the case.

It is the responsibility of the investigator to conduct all investigations in keeping with the highest standards of ethical behavior.

The Director of OEO can designate these responsibilities to the Diversity Program Administrator.

Definitions

Investigation is defined as the process used to gather the facts to support or disprove a complaint or report of an alleged incident. The investigation seeks to determine or report the truth and all the facts, both favorable and unfavorable, in order that management will have all the facts available to them, in rendering a fair decision.

Investigator is defined as a state employee or contractor acting as an agent of the state whose duties require him or her to respond to complaints and allegations, in order to determine the following:

- First, determine the elements of the reported incident.
- Second, seek to gather information concerning those elements.
- Third, prepare a written report of those findings to the Diversity Program Administrator.

Principles

WSDOT recognizes the following principles:

- First, it is wrong to bring the power of the state down upon any person in a civil enforcement action unless that action is based upon a proper investigation of the pertinent facts.
- Second, all who investigate should be trained to investigate.
- Third, investigators should know the scope of their authority and stay within it.
- Fourth, investigators should know what matters lie beyond their authority, and when, how and to whom those matters should be referred.
- Fifth, investigators should know how to competently gather and preserve evidence of wrongdoing.
- Sixth, investigators should know and respect the rights of those they investigate and those from whom they seek to gather information.
- Seventh, as public servants, state agency investigators have a duty to maintain the highest standards of ethics and respect for the public.
- Eighth, no course of training is a substitute for sound management.
- Ninth, civil investigators perform an essential service to the people of the state. They comprise a profession that ought to be recognized and appreciated.

Department Directed Inquiry

In order to provide and maintain a workplace free from discrimination or harassment, the department may pursue an inquiry into allegations of discrimination, harassment, or violation of policy or rules with or without authorization of the complainant. When in doubt, the supervisor should contact OEO for assistance.

Complaint Procedures

If you believe you have been subjected to discrimination or harassment due to your race, religion, color, creed, national origin, age, sex, sexual orientation, marital status, status as a disabled or Vietnam-era veteran, or the presence of any form of disability, you have numerous options. The quickest, and normally most effective, option is to simply tell the offender about his or her behavior, explain what they are doing that disturbs you, and ask that this behavior stop. This may be done either in person or in writing. Complaints should be submitted by the complainant as soon as possible after the alleged violation.

If you do not want to confront the offender, if you have confronted the offender and the offensive behavior has not stopped, or if you believe your complaint has, or will, result in retaliation, you may use the informal or formal process described below. If you believe the discrimination or harassment is in violation of your civil rights, you may also file a complaint with the Washington State Human Rights Commission, the US Equal Employment Opportunity Commission, or with the courts.

In order to ensure a fair, equitable, and complete investigation occurs with a minimum impact on employee morale and in order to help reduce the stress caused by such an investigation, all interviews will be conducted under the guidelines provided at Appendix 6-1 to this document.

Additionally, the “Investigative Considerations” provided at Appendix 6-2 must be followed at all times by the investigator assigned to each case.

Intake Procedures

Before deciding which avenue to use to resolve a complaint, the Complainant must have a clear understanding of the issues. After this understanding has been developed, a decision can be made as to which approach is needed to resolve the complaint.

Action By	Action
Complainant	

1. Discuss complaint with your OEO Human Resource Consultant, or with a supervisor in your chain of command.

Human Resource Consultant

2. Upon receipt of the complaint, meet with the complainant immediately. Listen to the complainant, clarify issues, explain options. Follow outline listed on Interview Checklist (Attachment 1, DOT OEO Form 2-001).
3. Ensure the complainant understands that WSDOT takes all complaints seriously.
4. Give the complainant a copy of OEO complaint procedures. Explain complainant’s rights and responsibilities (Attachment 2, DOT Form 731-015EF).
5. Ensure the complainant understands that retaliation against any person making a complaint is prohibited and should be reported immediately.
6. Explain to the complainant that any disciplinary actions to be taken will be determined by the appointing authority and that OEO is not involved in this process.
7. Complete Customer Contact Report (Attachment 3, DOT OEO Form 2-002).

8. Evaluate the complainant's information; discuss whether the complainant wants an informal inquiry or formal investigation; determine what should be recommended to the Diversity Program Administrator.
9. Determine if there are any short-term special needs or if any short-term arrangements should be made to provide relief to the complainant.
10. Submit Customer Contact Form to DPA for review.

Diversity Programs Administrator

11. Review Customer Contact Form, determine jurisdiction, approve or reject, send to Administrative Assistant for case number, if needed.

Administrative Assistant

12. Assign case number, prepare file folder, enter case into data base, provide HRC a copy of the approved customer contact form for action.

Informal Inquiry Procedures

Many people who believe they have experienced discrimination or harassment of some form or another simply want it to end. For this reason, an informal process has been established to meet this need. You are not required to use this process as a prerequisite to exercising your other options.

The informal inquiry will be handled as discretely as possible. However, no guarantee of confidentiality can be made.

<i>Action By</i>	<i>Action</i>
Human Resource Consultant	

1. Ensure the complainant understands the need to keep the matter confidential to the fullest extent possible in order to preserve all parties' privacy.
2. Consider discussing issue with complainant's supervisor on a case-by-case basis.
3. With the complainant's permission, talk to others about options for resolution; provide the complainant with reference information about available resources to deal with the complaint; help the complainant determine who can best address their concerns and needs.
4. Assist complainant in resolving complaint.
5. **Document** all actions taken including resolution.
6. Complete and submit Customer Contact Form to DPA for review.

Complainant

7. Determine whether further action will be needed or if suggested resolution is satisfactory.

Human Resource Consultant

8. If further action is needed, assist with referring the situation to the appropriate process.
9. When a satisfactory resolution is found, follow-up with complainant as appropriate to ensure no reoccurrence.
10. Upon conclusion, return the original case file to ICRB for storage and archiving.

Formal Investigation/DDI Procedures

Sometimes alleged sexual harassment or discriminatory behavior is so severe that a complainant can request a formal investigation or management may decide that an agency-directed investigation is required. As with informal inquiries, formal investigations will be handled as discretely as possible. However, no guarantee of confidentiality can be made.

Action By	Action
------------------	---------------

Human Resource Consultant

1. Prepare Pre-Investigative Plan (Attachment 4, DOT OEO Form 2-003).
2. Meet with complainant's appointing authority to explain situation. Review need for separation of parties if appropriate. Inform appointing authority of the steps in the investigation, who is assigned to investigate, who in ICRB will serve as the reviewing manager, and the expected timetable. Review procedures and provide consultation.
3. Send Complaint Notification Letters to Complainant and Respondent via Certified Mail (Attachments 5 and 6).
4. Meet individually with complainant, respondent, and witnesses. Ensure all parties understand the following:
 - a. WSDOT takes all complaints seriously.
 - b. The procedures that will be followed during the course of the investigation.
 - c. Retaliation against any person making a complaint is prohibited and should be reported immediately.
 - d. The need to keep the matter confidential to the fullest extent possible in order to preserve the privacy of all parties.
 - e. The investigation and any actions from the investigation will be handled on a need-to-know basis.

- f. OEO and the complainant's appointing authority are available for consultation on items of concern (outside the allegations of the investigation) with any of the parties involved.
5. Conduct an objective and impartial investigation. This includes collecting written statements and exhibits from respondent and witnesses, conducting follow-up interviews for clarification, and gathering responses to pertinent questions.
6. When an investigation will exceed the due date, report status of complainant, respondent, and appointing authority. Provide weekly update to DPA.
7. Prepare investigative report based on evidence gathered during investigation (Attachment 7).
8. Submit investigative report to the DPA for review and further disposition. The report should be submitted within 30 days of the completion of the investigation. In extenuating circumstances, reasonable extensions of time may be needed to complete the investigation and report. Extensions need to be agreed upon by the investigator and the DPA and communicated to all parties (Attachment 8).

Diversity Programs Administrator

9. Review investigative report and ensure the investigation was objective, impartial, and complete.
10. Prepare written conclusions. Return to HRC for outbriefing of appointing authority, complainant, and respondent.

Human Resource Consultant

11. Meet with the appointing authority to review case and recommended actions (i.e., separating parties, etc.). Provide consultation on resolution of the complaint.
12. Send Closing Letters to Complainant and Respondent via Certified Mail (Attachments 9 and 10). Include Request for Appeal Hearing form (Attachment 11, DOT Form 731-017EF).
13. Collect all materials relevant to investigation for inclusion in secured file. Return complete file to administrative assistant for storage and archiving.

Retaliation Prohibited

Retaliatory action of any kind against any individual participating in the filing and investigation of a complaint of discrimination, harassment, or violation of policy or rules is prohibited and will be treated in the same manner as complaints of discrimination or harassment.

See Also

DOT Executive Order E 1014.00, Equal Employment Opportunity, Affirmative Action, and Freedom from Discrimination and Sexual Harassment

DOT Policy Statement P 2007.00, Equal Opportunity and Affirmative Action

DOT Policy Statement P 2008.00, Freedom from Discrimination

DOT Policy Statement P 2009.00, Freedom from Sexual Harassment

Titles VI and VII of the Civil Rights Act of 1964, as amended

Section 504 of the Rehabilitation Act of 1973, as amended

Age Discrimination Claim Assistance Act of 1988, as amended

Age Discrimination in Employment Act of 1967, as amended

Americans With Disabilities Act of 1990, as amended

Washington State Law Against Discrimination, RCW 49.60, as amended

Washington State Executive Orders 89-01 (Sexual Harassment); 96-04 (Reasonable Accommodation); and 93-07 (Affirmative Action)

Vietnam-era Veterans Readjustment Act of 1974, as amended

Washington State Executive Order 98-02, Training and Protocols for State Investigators

P65:DP/EODM

Attachment 1 Interview Checklist

<p>WASHINGTON STATE DEPARTMENT OF TRANSPORTATION OFFICE OF EQUAL OPPORTUNITY</p> <p>INTERVIEW CHECKLIST</p>		<div style="border: 1px solid black; padding: 2px; display: inline-block;">Case #:</div>
<p>NOTE: Follow the guidelines in Chapter 2 of the <i>Equal Opportunity Desk Manual</i> & refer to the Customer Contact Report for relevant information not contained in this form.</p>		
<p>NAME (Complainant, Respondent, or Witness): _____</p>		
<p><u>INTERVIEWEE INFORMED OF:</u></p> <p>_____ Right to representation.</p> <p>_____ Voluntary nature of participation.</p> <p>_____ Interviewee's rights and responsibilities.</p> <p>_____ Applicable policies and procedures.</p> <p>_____ Early resolution option (Complainant / Respondent).</p> <p>_____ Public records request process and redacting process.</p> <p>_____ Copy of statement provided (or will be provided by: _____).</p>		
<p><u>INVESTIGATOR EXPLAINED / CLARIFIED:</u></p> <p>_____ Employer commitment to resolution.</p> <p>_____ All relevant statements are "on the record."</p> <p>_____ His / her problem in own words.</p> <p>_____ Issues, bases, and causal relationships of problems.</p> <p>_____ Equal employment opportunity (OEO) and non-OEO issues.</p> <p>_____ Complainant's resolution issues.</p> <p>_____ Next procedural steps and timelines.</p> <p>_____ Investigator's business card provided.</p>		
<p>ACKNOWLEDGEMENT</p>		
<p>INVESTIGATOR</p> <p>_____ Signature</p> <p>_____ Date</p>	<p>INTERVIEWEE</p> <p>_____ Signature</p> <p>_____ Date</p>	
<p>DOT OEO Form 2-001 Revised: 11/99</p>		

Attachment 2 Complainant's Rights and Responsibilities



Washington State
Department of Transportation

Complainant's Rights and Responsibilities

OEO Office Use Only

Case #

NOTE: Persons with disabilities may request this information be prepared and supplied in alternate formats by calling 360-705-7095. Persons with hearing impairments may call 1-800-833-6388 (Washington State Telecommunications Relay Service), Tele-Braille at 1-800-833-6385, or Voice at 1-800-833-6384, and ask to be connected to 360-705-7097.

You Have the Right:

1. To file a complaint with the Washington State Human Rights Commission (if it is within their jurisdiction) within 180 days of the alleged incident(s).
2. To file a complaint with the Equal Employment Opportunity Commission (if it is within their jurisdiction) within 300 days of the alleged incident(s).
3. To file a complaint with the United States Department of Justice.
4. To sue privately in state or federal court if you meet statutory time and jurisdictional requirements.
5. To file any union action that may be available.
6. To consult with an attorney at any time.
7. To have union representation present if applicable.

Note: You do not have to wait for the Washington State Department of Transportation (WSDOT) to complete your case to pursue any of the above options.

8. To appeal the investigative results of the Office of Equal Opportunity (OEO) to the Equal Opportunity Committee (EOC) within 15 days of receipt of notification by registered mail.

You Have the Responsibility:

1. To cooperate fully in the investigation.
2. To provide information requested.
3. To keep the OEO advised of your current address and telephone number and to let the OEO know about any prolonged absences.
4. A duty not to interfere with the investigation including, but not limited to, discussing the matter with possible witnesses regarding issues affecting the investigation.

Referral Information

WSDOT Office of Equal Opportunity
310 Maple Park SE, Olympia, WA 98504-7314
Phone: 360-705-7090

Washington State Human Rights Commission
711 Capitol Way, Suite 402, Olympia, WA 98504-2490
Phone: 360-753-6770

Washington State Human Rights Commission
1511 3rd Street, Seattle, WA 98101
Phone: 206-464-6500

Equal Employment Opportunity Commission
909 First Avenue, Suite 400, Seattle WA 98104
Phone: 206-220-6882 / 1-800-669-4000

(For Title II and Section 504 Complaints)
Department of Justice, Civil Rights Section
Box 66738, Washington, DC 20035-6738

(For Title II, Title VI & Section 504 Complaints)
Federal Highway Administration, 711 S. Capitol Way
(Washington State Division Office)
Olympia, WA 98501-1284
Phone: 360-534-9325

I have read or had explained to me the above information. I have received a copy of this document.

I have explained the above information to the complainant.

Complainant's Signature

Date

OEO Human Resources
Consultant/Designee

Date

DOT Form 731-015 EF
3/2001

Attachment 3 Customer Contact Report

WASHINGTON STATE DEPARTMENT OF TRANSPORTATION OFFICE OF EQUAL OPPORTUNITY			
CUSTOMER CONTACT REPORT			
			CASE #:
			DUE DATE:
CHECK THOSE THAT APPLY			
<input type="checkbox"/> TITLE VI	<input type="checkbox"/> Disability	<input type="checkbox"/> Disabled Veteran	<input type="checkbox"/> Marital Status
<input type="checkbox"/> Race / Color	<input type="checkbox"/> Sex (Includes Sexual Harassment)	<input type="checkbox"/> Vietnam Era Veteran	<input type="checkbox"/> Sexual Orientation
<input type="checkbox"/> Age		<input type="checkbox"/> National Origin	<input type="checkbox"/> Retaliation
<input type="checkbox"/> Creed / Religion			
NOTE: Fax this form to the OSC OEO the following business day.			
Received By	Date / Time	Location	Report Received <input type="checkbox"/> E-mail <input type="checkbox"/> Mail <input type="checkbox"/> in Person <input type="checkbox"/> Phone
Name of Complainant	Job Title	Region / Organization	
Complete Home Address			Phone Number ()
Name of Respondent	Job Title	Region / Organization	
Complete Home Address (if known)			Phone No. (if known) ()
Date and Time of Allegation	Location of Allegation	Summary of Allegation(s)	
Use Supplemental Pages A and B, if appropriate.			
(OEO) HUMAN RESOURCES CONSULTANT TAKING REPORT			
COMMENTS			
<input type="checkbox"/> Appointing Authority Notified			
RECOMMENDED PROCESS: <input type="checkbox"/> Formal <input type="checkbox"/> Dept Directed Inquiry <input type="checkbox"/> Informal <input type="checkbox"/> Referred to: _____ (Not within the scope of OEO's authority)			
DIVERSITY PROGRAMS ADMINSTRATOR'S (DPA) REVIEW			
COMMENTS			
ASSIGNED INVESTIGATOR: _____			
PROCESS: <input type="checkbox"/> Formal <input type="checkbox"/> Dept Directed Inquiry <input type="checkbox"/> Informal <input type="checkbox"/> Referred to: _____ (Not within the scope of OEO's authority)			
DIVERSITY PROGRAMS ADMINSTRATOR'S SIGNATURE _____ DATE _____			
INVESTIGATION STATUS			
<input type="checkbox"/> Under Investigation DATE _____	<input type="checkbox"/> Report Submitted to DPA DATE _____	<input type="checkbox"/> All Parties Out-briefed DATE _____	
DATE CLOSED _____ AND STATUS:			
<input type="checkbox"/> Administrative Closure <input type="checkbox"/> Policy Violation <input type="checkbox"/> Early Resolution Closure <input type="checkbox"/> _____			
DATE ORIGINAL INVESTIGATIVE FILE RECEIVED AT OSC OEO: _____			

OEO Form 2-002
Revised: 12/99

Page 1 of ____ pages

Attachment 3 Customer Contact Report – Supplemental Page B

WASHINGTON STATE DEPARTMENT OF TRANSPORTATION
OFFICE OF EQUAL OPPORTUNITY

CUSTOMER CONTACT REPORT

CASE #:

SUPPLEMENTAL PAGE B - WITNESS(ES)

Name of Complainant: _____ / Date: _____

Name	Organization / Department	Phone Number
Information They Can Provide		
Name	Organization / Department	Phone Number
Information They Can Provide		
Name	Organization / Department	Phone Number
Information They Can Provide		
Name	Organization / Department	Phone Number
Information They Can Provide		
Name	Organization / Department	Phone Number
Information They Can Provide		
Name	Organization / Department	Phone Number
Information They Can Provide		
Name	Organization / Department	Phone Number
Information They Can Provide		
Name	Organization / Department	Phone Number
Information They Can Provide		

DOT OEO Form 2-002 Sup B
Revised: 9/99

Page ____ of ____ pages

Attachment 4 Pre-Investigation Plan

WASHINGTON STATE DEPARTMENT OF TRANSPORTATION
OFFICE OF EQUAL OPPORTUNITY

PRE-INVESTIGATION PLAN

Case #:

NOTE: Follow the guidelines in Chapter 6 of the Equal Opportunity Desk Manual, and refer to the Customer Contact Report and the Title VII Discrimination Complaint form for relevant information not contained in this document.

COMPLAINANT: _____ RESPONDENT: _____
Phone Number: _____ Phone Number: _____
Work Schedule: _____ Work Schedule: _____

◆ DATE COMPLAINT FILED: _____ TARGET COMPLETION DATE: _____

◆ HARM: _____

◆ BASIS: _____

◆ AGENCY WHERE COMPLAINT WAS FILED: _____

◆ SUMMARY OF COMPLAINANT'S ALLEGATIONS: _____

◆ RESPONDENT'S POSITION / RESPONSE: _____

◆ WHAT IS THE FULL POTENTIAL REMEDY? _____

◆ ADDITIONAL WITNESSES:

Name	Phone Number	Work Schedule
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

◆ WHAT RECORDS WILL ESTABLISH THE FACTS?

Document Title	Source	Location
_____	_____	_____
_____	_____	_____
_____	_____	_____

◆ ADDITIONAL COMMENTS: _____

DOT OEO Form 2-003
Revised: 11/99

Attachment 5 Complaint Notification Letter to Complainant

LETTERHEAD

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Date

Title/Complainant
Street Address
City, State ZIP

Re: Case No.

Dear Title/Complainant:

This is to acknowledge receipt of your complaint by the (office) of the (agency).

This office is charged with conducting fair and impartial investigations into allegations of civil rights violations. We are also charged with attempting to resolve issues by mutual agreement of the parties involved prior to beginning a formal investigation.

A copy of your complaint will be forwarded to the responding party(ies) in order to provide the individual(s) with the opportunity to prepare a response. Federal and state laws prohibit the respondent(s) from taking any action against you because you have filed a complaint. If you believe retaliation is occurring, please contact me immediately.

I have assigned (name) as the investigator responsible for this case. (Name) will contact you within the next 10 days to begin the early resolution process. If an early resolution cannot be achieved, an investigation will be initiated. Once the investigation has been completed, you will be notified of the results.

Please note that you also have the right to file a complaint with the Washington State Human Rights Commission within 180 days of the alleged incident(s) or the Equal Employment Opportunity Commission within 300 days of the alleged incident(s).

If you have further concerns or questions, please contact (investigator) at (phone number).

Sincerely,

(Diversity Programs Administrator)
cc: (Investigator)

DOT OEO Letter 2-001
Revised 5/01

Attachment 6 Complaint Notification Letter to Respondent

LETTERHEAD

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Date

Title/Respondent
Street Address
City, State ZIP

Re: Case No.

Dear Title/Respondent:

The attached complaint has been filed with the (office) of the (agency).

This office is charged with conducting fair and impartial investigations into allegations of civil rights violations. We are also charged with attempting to resolve issues by mutual agreement of the parties involved prior to beginning a formal investigation.

If you wish to respond to this complaint, we ask that you provide a written response containing any information (including dates, witnesses, documentation) that supports your response by (date).

I have assigned (name) as the investigator responsible for this case. (Name) will contact you within 10 days of receipt of your response to begin the early resolution process. If an early resolution cannot be achieved, an investigation will be initiated. Once the investigation has been completed, you will be notified of the results.

Federal and state laws prohibit you from interfering with, or retaliating against the complainant directly or indirectly because they have filed a complaint or are involved in the complaint process.

If you have further concerns or questions, please contact (investigator) at (phone number).

Sincerely,

(Diversity Programs Administrator)
cc: (Investigator)

DOT OEO Letter 2-002
Revised 5/01

Attachment 7 Final Investigation Report (page 1 of 2)

FINAL INVESTIGATIVE REPORT

Date: February 01, 2001
From: Joe Monday, HRC3
Subject: Formal Investigation
To: (Name) Diversity Program Administrator

Case Number: 1B0012-0000
Type of Case: Sexual harassment
Date Filed: 12/1/2000
Date of Occurrence: November 29, 2000 and previous
Location of Occurrence: On the job - Portland area
Complainant: John Doe
Complaint Job Title: Maintenance Tech II
Investigated By: Joe Monday
Policy Areas Addressed: Chapter 1, OEO Manual - Sexual Harassment

SYNOPSIS:

(The synopsis is a brief overview of the facts and circumstances of the case)

On December 1, 2001, John Doe, Maintenance Tech II, contacted the Office of Equal Opportunity to file allegations concerning sexual harassed by a female coworker with sexually graphic pictures, sexual and cultural jokes, and the use of profanity that affected his ability to perform his job. Mr. Doe alleges this behavior has been going on for two years and that management is aware of it. Mr. Doe further alleges that management has witnessed some of these behaviors and has not taken any measures to stop this behavior.

NARRATIVE:

(The narrative is a chronological summary of information by witnesses and the accused employee(s) critical to the complaint(s)).

An investigation was conducted to examine the following allegations:

1. Mr. Doe alleges that on 11/29/2000, while attending training, Mrs. Jane Smith, Maintenance Tech II, displayed an inappropriate picture of a male model and stated, "I wonder if you look like this guy." Mr. Doe stated this happened in front of several female coworkers. Mr. Doe alleges that he told Mrs. Smith he did not appreciate her comment and she called me a derogatory name.
2. Mr. Doe alleges the practice of telling sexual and/or cultural jokes, and displaying sexually graphic pictures has been going on for years and this behavior has affected his ability to perform his job.

Attachment 7 Final Investigation Report (page 2 of 2)

(Name) DPA
Page 2
February 1, 2001

3. Mr. Doe alleges management has been present when sexual and cultural jokes are said and nothing has been done to stop this behavior.

Allegation #1:

On December 5, 2000, Mrs. Smith denied showing the picture of a male model and did not recall making the alleged statement to Mr. Doe. Mrs. Smith admitted when she came back from a break she noticed that someone had placed a picture of a male model on her chair but that she did not see anything wrong with the picture. She stated she did not know who had put it in her chair.

One witness admitted seeing the picture, but denies bring it to work. None of the witnesses interviewed admitted to bring the picture or having heard the alleged statement made by Mrs. Smith

Allegation #2:

Several witness interviewed admitted that sexual and/or cultural jokes are told in the workplace from time to time but they are harmless and no one has ever complained. Witnesses indicated that Mr. Doe has heard these jokes and he had never indicated that they were offensive or interfered with his job.

Allegation #3:

Several witness interviewed admitted that sexual and/or cultural jokes told were in the presence of a supervisor and they laughed at the jokes. Witnesses indicated management has never told them their behavior is inappropriate for the workplace.

Written by: Joe Monday, HRC3
Assigned Region Date signed: 02/01/01

Approved by: Signature
Diversity Programs Administrator Date signed: 02/08/01

Attachment 8 Extension Letter

LETTERHEAD

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Date

Title/Complainant (Respondent or Complainant)
Street Address
City, State ZIP

Re: Case No.

Dear Title/Complainant (Respondent or Complainant):

This is to notify you that due to unforeseen circumstances, (investigator) will be unable to complete the investigation into your complaint within the time prescribed under department policy. Therefore, an extension of (number) days has been granted to the investigator by the Diversity Programs Administrator in order to ensure a full and complete investigation is conducted.

If you have further concerns or questions, please contact (investigator) at (phone number).

Sincerely,

(Diversity Programs Administrator)
cc: (Investigator)

DOT OEO Letter 2-003
Revised 5/01

Attachment 9 Appeal Letter to Complainant

LETTERHEAD

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Date

Title/Complainant
Street Address
City, State ZIP

Re: Case No.

Dear Title/Complainant:

On (date), you were provided with a copy of the findings of the investigation conducted by the Office of Equal Opportunity (OEO).

You may appeal a finding of the OEO to the Equal Opportunity Committee. Your appeal must be submitted to the Secretary of Transportation within 15 calendar days of receipt of this letter, using DOT Form 731-017EF. In order for your request for appeal to be heard, you must base the appeal on at least one of the following categories:

- a. All information available was not considered by the investigator;
- b. The finding in the case was a misapplication of department policy;

Please note that this finding and the appeal process in no way abrogates any other rights you may have under federal, state, and local laws.

The Washington State Department of Transportation is committed to providing its employees and the public with a discrimination-free environment.

If you have further concerns or questions, please contact (investigator) at (phone number).

Sincerely,

(Diversity Programs Administrator)
cc: (Investigator)

DOT OEO Letter 2-004
Revised 5/01

Attachment 10 Appeal Letter to Respondent

LETTERHEAD

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Date

Title/Respondent
Street Address
City, State ZIP

Re: Case No.

Dear Title/Respondent:

On (date), you were provided with a copy of the findings of the investigation conducted by the Office of Equal Opportunity (OEO).

You may appeal a finding of the OEO to the Equal Opportunity Committee. Your appeal must be submitted to the Secretary of Transportation within 15 calendar days of receipt of this letter, using DOT Form 731-017EF. In order for your request for appeal to be heard, you must base the appeal on at least one of the following categories:

- a. All information available was not considered by the investigator;
- b. The finding in the case was a misapplication of department policy;
- c. The element of "due process" was not provided in accordance with the discrimination complaint procedures outlined in Chapter 6 of the *Equal Opportunity Desk Manual*.

Please note that this finding and the appeal process in no way abrogates any other rights you may have under federal, state, and local laws.

The Washington State Department of Transportation is committed to providing its employees and the public with a discrimination-free environment.

If you have further concerns or questions, please contact (investigator) at (phone number).

Sincerely,

(Diversity Programs Administrator)
cc: (Investigator)

DOT OEO Letter 2-005
Revised 5/01

Attachment 11 Request for Appeal Hearing



Washington State
Department of Transportation

Request for Appeal Hearing

OEO Office Use Only

Case #

NOTE: Persons with disabilities may request this information be prepared and supplied in alternate formats by calling 360-705-7095. Persons with hearing impairments may call 1-800-833-6388 (Washington State Telecommunications Relay Service), Tele-Braille at 1-800-833-6385, or Voice at 1-800-833-6384, and ask to be connected to 360-705-7097.

Name	Job Title	
Home Address	Home Phone	Work Phone

Regarding: _____

- ☐ 1. All information available was not considered. (Please describe what was not considered and why it would affect the outcome):

- ☐ 2. I do not believe this is an appropriate application of Departmental policy and procedures. (Please describe why you believe the conclusion was erroneous):

- ☐ 3. Additional Comments:

Submit this form to the Secretary of Transportation, Transportation Building, PO Box 47316, Olympia, WA 98504-7316.

After review of your request, you will be informed if an appeal hearing is scheduled. At the appeal hearing, you may personally present your concerns to the oversight Equal Opportunity Committee.

Chapter 3 of the Equal Opportunity Desk Manual outlines the appeal hearing process and membership of the Equal Opportunity Committee.

DOT Form 731-017 EF
3/2001

Case #:

This image shows a blank sheet of white paper with horizontal ruling lines. The lines are evenly spaced and run across the width of the page. There are no margins, text, or other markings on the paper.

PERSON PROVIDING STATEMENT

Signature _____ Date _____

Page ____ of ____ pages

Attachment 14 Terms of Resolution of Complainant

WASHINGTON STATE DEPARTMENT OF TRANSPORTATION
OFFICE OF EQUAL OPPORTUNITY

Case #:

TERMS OF RESOLUTION OF COMPLAINANT

NOTE: Refer to the Customer Contact Report for relevant information not contained in this form.

COMPLAINANT: _____ RESPONDENT: _____

You are requested to state what terms of remedy you feel will settle your complaint. The Office of Equal Opportunity (OEO) will convey these terms to the Respondent and appointing authority, not as demands for resolution, but as an opportunity to determine if Early Resolve is possible. You may also call and discuss this with the OEO investigator.

As settlement of my complaint, I am proposing the following terms of remedy of my complaint:

1. _____

2. _____

3. _____

4. _____

___ I do not have any proposed terms of remedy at this time.

___ I do not want OEO to pursue Early Resolution.

The case will be administratively closed and the files will be kept in the Office of Equal Opportunity if all the parties agree to early resolution.

OEO Human Resources Consultant Date

Signature Date

DOT OEO Form 2-006
Revised 12/99

Attachment 15 Title VII Discrimination Complaint Process Instructions



**Washington State
Department of Transportation**

Title VII Discrimination Complaint Process

Washington State and Federal civil rights laws and Gubernatorial Executive Order EO-91-06 prohibit discrimination in state employment practices based on a person's race, color, national origin, sex, disability, creed, religion, age, marital status, sexual orientation, or disabled and Vietnam Era Veteran status.

If you believe that you have been discriminated against on any of the bases listed above, please report that allegation of discrimination to the Office of Equal Opportunity (OEO) Representative at one of the addresses listed below by completing the attached form, or call the telephone number appropriate to your area. Information will be kept in a file separate from any individual's personnel file.

If you choose to complete the form, send the form to the appropriate OEO Representative in your area (as listed below). That area's OEO Human Resources Consultant will contact you and arrange to conduct an investigation of your complaint. The OEO Human Resources Consultant will then make recommendations to resolve the alleged discriminatory issues.

If you and/or your appointing authority do not wish to accept those recommendations, the complaint will then be sent to the Equal Opportunity Committee. The committee is comprised of the Deputy Secretary of Transportation, the Olympic Service Center Human Resources Director, the Office of Equal Opportunity Director, and the executive of your work unit. The committee will make further recommendations for resolution of the complaint.

The appointing authority is required to implement the recommendations of the committee. The OEO Internal Civil Rights Branch and the Equal Opportunity Committee will attempt to resolve complaints through conciliation methods. You may also file a discrimination complaint with the Washington State Human Rights Commission, the U.S. Equal Employment Opportunity Commission, or the U.S. Department of Justice.

By law and agency policy, no person who has filed a complaint or assisted in the investigation of a complaint shall be intimidated, threatened, coerced, or in any way retaliated against.

Please forward this discrimination complaint to one of the following offices:

(Please choose either the Agency headquarters or the region office nearest you.)

Department of Transportation
Office of Equal Opportunity, Internal Civil Rights Branch
Transportation Building, Rm. 3C23, MS: 47314
310 Maple Park Avenue SE
Olympia, WA 98504-7314
(360) 705-7095

Department of Transportation
Southwest Region Office of Equal Opportunity
P.O. Box 1709, MS: S-15
4200 Main Street
Vancouver, WA 98668-1709
(360) 905-2220

Department of Transportation
Olympic Region Office of Equal Opportunity
P.O. Box 47448
5720 Capitol Boulevard, MS: 7448
Olympia, WA 98504
(360) 357-2613

Department of Transportation
South Central Region Office of Equal Opportunity
P.O. Box 12560
2809 Rudkin Road
Yakima, WA 98909-2560
(509) 575-2549

Department of Transportation
Northwest Region Office of Equal Opportunity
PO Box 330310, MS: NB82-126
15700 Dayton Avenue North
Seattle, WA 98135-97610
(206) 440-4680

Department of Transportation
Eastern Region Office of Equal Opportunity
2714 North Mayfair Street
Spokane, WA 99207-2090
(509) 324-6018

Department of Transportation
North Central Office of Equal Opportunity
P.O. Box 98
1551 North Wenatchee Avenue
Wenatchee, WA 98807
(509) 663-9644

Department of Transportation
Washington State Ferries Office of Equal Opportunity
MS: TB-32, 2911 Building
2911 Second Avenue
Seattle, WA 98121
(206) 515-3683

DOT Form 731-003 EF Instructions
Revised 8/01

Attachment 15 Title VII Discrimination Complaint Form (page 1 of 2)



Washington State
Department of Transportation

**Title VII
Discrimination Complaint**

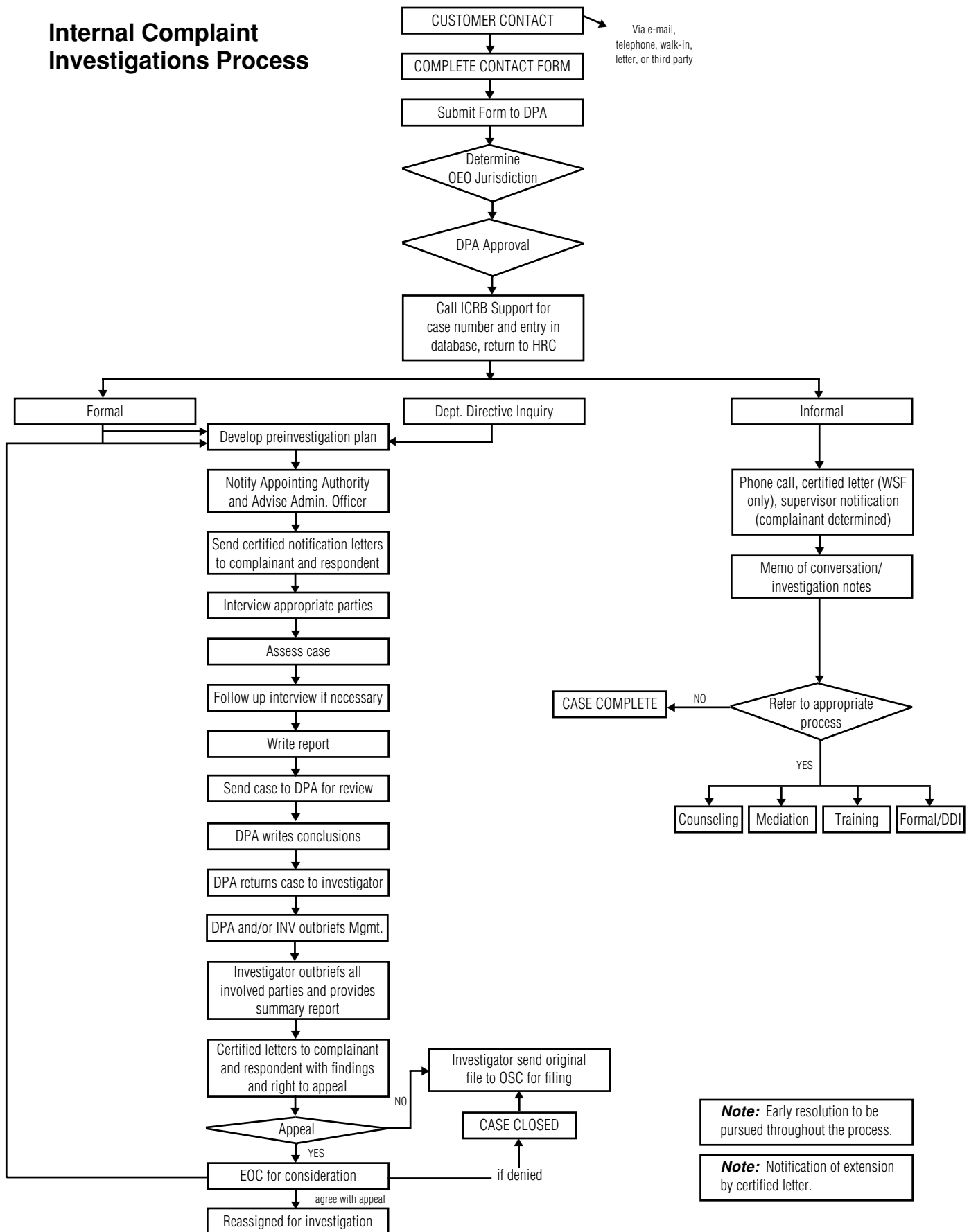
		OEO Office Use Only	
		Case #	
Name (Complainant)	Phone	Name of Person(s) or Division/Region That Discriminated Against You	
Address (Street No., P.O. Box, etc.)		Location and Position of Person (If Known)	
City, State, Zip		City, State, Zip	Date of Alleged Incident
Discrimination Because of:	<input type="checkbox"/> Race/Color <input type="checkbox"/> Age <input type="checkbox"/> Creed/Religion	<input type="checkbox"/> Disability <input type="checkbox"/> Sex (Includes Sexual Harassment)	<input type="checkbox"/> Disabled Veteran <input type="checkbox"/> Vietnam Era Veteran <input type="checkbox"/> National Origin <input type="checkbox"/> Marital Status <input type="checkbox"/> Sexual Orientation <input type="checkbox"/> Retaliation
Explain as briefly and clearly as possible what happened and how you were discriminated against. Indicate who was involved. Be sure to include how other persons were treated differently than you. Also attach any written material pertaining to your case.			
Signature		Date	

DOT Form 731-003 EF
Revised 8/01

Please mail or return this form to the appropriate region office.

Page 2-29

Internal Complaint Investigations Process



Office of Equal Opportunity (OEO) investigative interviews, like other types of investigations, involve fact-gathering through interviews of persons with personal first-hand knowledge of the facts and circumstances surrounding the alleged act(s): in this case, acts of discrimination and harassment. The end result of the interviews should be written documentation summarizing the witness' personal knowledge of the facts. The interviewing report must be detailed and factual, rather than conclusive; the interview must go beyond general statements, which contain little probative material, to get to the underlying facts.

A. Preparation

Immediately before each interview, prepare and review a general guide you will be following. Notes previously taken during the investigation of which the witness could add additional insight should also be reviewed. Information taken during the interview should be organized so that witness' statements can be verified through other sources. The ability to refer to previously discovered information during the course of an interview will do much to focus the interview on matters important to the investigation.

When able to select the site for an interview, the investigator should ensure that the room is set in a businesslike, non-threatening arrangement. Try to ensure that no interruptions take place during the interview. Generally, the interview should take place in a private setting with an emphasis on a secure environment.

B. Conducting the Interview

1. Framework

It is important to establish a professional tone and try to alleviate the anxieties of those to be interviewed. An effective introductory statement will include comments on why the interview is necessary, the investigator's role as gatherer of information, and the need for confidentiality. The interview will begin with covering the information on the Interview Checklist (DOT OEO Form 2-001).

2. Question and Answer Process

While interviewing techniques depend somewhat on the investigator's style, there are some well-tried methods that have been used successfully in the past.

It is better to begin with general questions designed to allow witnesses to develop information in their own way. Ask the witness to tell what happened in his or her own words. Witnesses usually respond by telling their stories with little need of assistance. This "free flow" type of response provides a general overview of the situation and the opportunity to structure notes in a way that will permit useful follow-up questions.

In very lengthy or detailed interviews, have the witness relate on a segment of the story, then ask follow-up questions before going on.

C. Interviewing Techniques

1. Listen to the Person You Are Interviewing

The person you are interviewing should feel that the investigator is interested in what s/he is saying. Be careful not to become so involved in documenting (note-taking) the interview, that you give the impression of not listening.

2. Avoid Disruptions

Try not to interrupt the person you are interviewing in the middle of a statement. If you detect any ambiguity in their statement, make a note of it and ask them to explain it later.

3. Speak Clearly

Adjust your language to the person you are interviewing without talking down to them. Avoid the use of technical terms and try to phrase questions so that they carry the meaning you intended.

4. Be Flexible

Adjust the line of inquiry to accommodate new knowledge and information disclosed during the interview. Do not allow the interviewing process to become so fixed on a prepared set of questions that you become inflexible.

5. Avoid Antagonizing Uncooperative Respondents or Witnesses

When interviewing an uncooperative respondent or witness, avoid increasing their hostility with badgering questions. Try to plan your approach allowing the person you are interviewing to tell the story in his/her own way. Move from question to question as appropriate.

D. Selection and Analysis of Documents

During investigative interviews, complainants, respondents, and witnesses should be repeatedly asked whether they are aware of any documentary evidence that would either support what they say or discredit what another individual has said. In many cases of alleged discrimination, the best evidence will be the actual documents stating rules, procedure, or other information that formed the basis for some action relative to the work situation. The investigator must find out about such material, obtain it, organize it, and analyze it.

1. Selection

- a. General Selection Factors

Care should be taken to make note of where records were kept, by whom they were maintained, and what standard job titles, codes, etc., mean. Others who review or use these records later will need to know such information.

Always try to be reasonable with requests for records. Get only essential records. Make sure, if a request appears burdensome, that it is necessary and the person of whom it is asked is aware of the necessity for the records.

b. When to Ask for Records

Requests for particular records from witnesses should be made only after an interview has been completed. Witnesses may indicate and/or identify specific records kept in specific areas, which were not known when the investigative plan was devised. Keeping in mind that all possible like and related issues of discrimination should also be investigated, witness interviews may reveal potential areas of violation not alleged in the charge that could be corroborated or disproved by evidence secured from appropriate records.

c. Develop the Need for Records in a Logical Fashion

Develop and present requests for documentary evidence with an eye to the special circumstances of the case. Do not demand a great deal of documentary evidence before the proper framework has been set and some initial questions asked. As the interview proceeds and as individual documents are mentioned, it is appropriate to make note of the documents that will have to be examined. In this way, also, the need for such documents is obvious to the witness when they are later requested. After the initial round of questioning, the investigator's marginal notes will contain a list of relevant documents to examine. Ask for only a few of them at a time and, after examining those, request others if needed.

d. Types of Records to Examine

The records to be obtained will vary with the issues and their bases. Generally, those documents that describe in any manner the complainant's work relationship with the witness, and with WSDOT, will be valuable documentary evidence. Descriptions of general personnel policies and practices of WSDOT that relate to the alleged discriminatory situation, will be pertinent. If class issues are involved, records indicating comparative treatment of and work histories of various groups of individuals will be important; comparisons of hiring, promotions, performance appraisals, transfers, and termination, to name a few, will generally have to be made. Records from different time periods will probably be important in both individual and class action cases.

2. Analysis

Before composing the report summarizing the investigative findings, it is important to do a penetrating analysis of the data collected. The depth of analysis will depend, in some respects, on the investigator's knowledge of the elements and issues involved in the particular case. If there are any questions about the significance or importance of any piece of evidence, the Diversity Programs Administrator, OEO Director, and/or the Assistant Attorney General should be consulted.

As the investigation proceeds, the investigator will have been continually modifying the initial investigative plan. A "theory" (or, sometimes, parallel "theories") of the case will become evident as the investigator proceeds. The detailed analysis will prove out the correctness of the investigative plan and will further support an appropriate theory of the case.

To help others grasp the investigator's perception of a case, the following general considerations are important:

a. Define Terms

All terms not in general usage should be defined, especially those which distinguish between various factors of a job position.

b. Distinguish Between Fact and Opinion

The principal job of the investigator is to report evidence of facts. Distinguishing between fact, hearsay (generally, something less than personal observation), characterization, evaluation, and opinion.

c. Complete Descriptions of Work Performed

Fully describe the relevant elements of the work being performed. This is particularly important when the charging party is alleging less pay for the same work. In such a case, a comparative analysis chart of the work in question would be in order.

d. Explain the Absence of Evidence

Reviewers of an investigator's memo will fail to understand why an obviously needed piece of evidence is missing. Outlining unsuccessful efforts to obtain evidence forestalls the impression that the omission is an oversight and points the direction for additional investigative efforts.

e. Mechanics

Much of the data, especially so in a class case, will concern comparative evidence. The manner in which members of an affected class (African-Americans, Hispanics, females, etc.) are treated as compared to members of other classes (American Indians, Caucasians, males, etc.) can be shown by putting together a chart of such items as names, racial or ethnic characteristics, sex, date of hire, and salaries. For example, one chart can provide comparison data on failure to hire, promote, transfer, pay, etc.

An analysis sheet should be developed for each document. The analysis sheet would eliminate all nonessential facts and information and give only a summary. The analysis sheet should also explain how the document was obtained, what any abbreviations mean and, where possible, put information into chart form. All working papers should be included as part of the analysis and notes should be indicating what data was examined and determined not useful.

The two most common problems when dealing with documents are that they may be inaccurate because of age or they are incomplete. Accordingly, documentary evidence must be checked for currency and completeness. This may be accomplished by the use of other documents bearing on the same subject or by the use of verbal statements. Testimony by persons, such as personnel managers, who may not have actual experience with the day-to-day operations covered by the document (e.g., the actual content of a specific job tends to be based upon the documents rather than observation). For that reason, testimony of high-ranked officials may be less technical than that of persons who work the job.

The best use of documentary evidence is to compare it to evidence collected through testimony. Statistical data can be very deceiving without some sort of understanding of the meaning of the numbers. The fact that 50 percent of all employees laid off were females is not significant unless it known that only 10 percent of the total employees are females.

P65:DP/EODM

This section covers numerous considerations for the investigator, which should be considered before, during, and at the conclusion of the work. This information is not all-inclusive as unplanned scenarios, needs, and circumstances can and will develop.

When in doubt about a course of action, ask for assistance from the Diversity Programs Administrator or input from peers or others involved in full-time investigative matters.

Safety First

The Washington State Department of Transportation (WSDOT) values their employees. While conducting investigative work, the investigator should be aware of the environment in which they work. Environment is defined, but not limited to: knowing what the work place atmosphere is like; background of the employees being interviewed or observed, including the complainant, witnesses, and the respondent. In addition, it is expected that depending on the circumstances, the investigator should conduct surveillance of the area they are to be working in, considering building, property layout, etc. In other words, plan ahead to the extent possible.

When dealing with a possible hostile situation, interviews should be conducted with two agency investigators present. This may not always be possible, in which case, the investigator must be cognizant of the surroundings and the individual being interviewed.

Risk of bodily harm and injury is not a requirement of the position! If the investigator has any doubts about their ability to function under a given set of circumstances, they are instructed to call for added support or consultation on the given situation.

Investigators

An “investigator” is any state employee whose duties include interviewing witnesses, obtaining documents, or otherwise gathering information that may be used in enforcement or disciplinary actions or proceeding where there is a potential for substantial civil or criminal remedies to be imposed on a person or business. The following employees are not considered investigators for the purposes of Executive Order No. 98-02: (a) Commissioned law enforcement officers whose duties consist exclusively of investigating criminal matters; (b) employees who conduct checklist inspections or review application materials for eligibility purposes; and (c) employees whose duties involve only obtaining documents or data under the supervision of an investigator.

The Purpose and Focus of the Investigation and Investigator

The purpose of an investigation is to determine the facts to support or disprove a complaint or report of an alleged incident. The investigation seeks to determine or report the truth and all the facts, both favorable and unfavorable, in order that management will have all the facts available to them, in rendering a fair decision.

The focus of the investigator is a thorough, impartial, report of facts concerning each element of the alleged complaint. Concurrently, the investigator must not brush aside or fail to report, any conflicting information or evidence that has substance.

It is essential to good management, public accountability, and ethical behavior that these standards of conduct be respected.

The Office of Equal Opportunity (OEO) has a 90-day time limitation on investigations conducted under their immediate control. The amount of time and effort utilized during an investigation is dependent upon a number of factors. Under normal circumstances, the investigation is driven by the amount of evidence, witnesses and information available to reach a conclusion about the assertions or activity being investigated. The amount of time is based on a case-by-case basis.

Public Right to Know

It is important to realize that as we perform our investigations, the public has a right to know what is going on in government. We are reminded in the Revised Code of Washington, RCW 42.17.251 Construction, which states:

The people of this state do not yield their sovereignty to the agencies that serve them. The people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know. The people insist on remaining informed so that they may maintain control over the instruments that they have created. The public records subdivision of this chapter shall be liberally construed and its exemptions narrowly construed to promote this public policy.

Privacy

It is important, that in the process of conducting an investigation we respect the privacy of the individual. The RCW 42.17.255 Invasion of Privacy, when states:

A person's "right to privacy," "right of privacy," "privacy," or "personal privacy," as these terms are used in this chapter, is invaded or violated only if disclosure of information about the person: (1) Would be highly offensive to a reasonable person, and (2) is not of legitimate concern to the public. The provisions of this chapter dealing with the right to privacy in certain public records do not create any right of privacy beyond those rights that are specified in this chapter as express exemptions from the public's right to inspect, examine, or copy public records. See also Release of Information.

Release of Information

Public records are available for inspection and copies may be obtained with the exception of those records that are exempt by law. All questions regarding public records disclosure should be directed to the Public Records Coordinator, Records and Information Services, Administration and Support, Washington State Department of Transportation. Department of Transportation Directive D72-21, October 18, 1996, Release of Public Records, provides guidance for the release of public records.

The investigator must be aware of the fact that he/she can not guarantee an individuals rights to privacy, should they become involved in an investigative activity. This includes the witnesses, the complainant, or respondent.

Report Process

The Diversity Programs Administrator assigns all investigations. All completed reports of investigations will be submitted to the Diversity Programs Administrator for his/her review and approval.

Rights Warning

Investigative personnel with OEO are classified as Human Resource Consultants and as such are not required to read the warning of rights to persons being interviewed.

Those involved in investigative matters should be aware of the Weingarten ruling, which gives union employees the right to have representation when being interviewed. The investigator is not required to notify the employee of this right, but may do so out of courtesy.

The investigator should be aware of the limitations in RCW 9.73.030 regarding recording of private communication. An excerpt of the law follows:

RCW 9.73.030 Intercepting, recording, or divulging private communication—Consent required—Exceptions.

- (1) Except as otherwise provided in this chapter, it shall be unlawful for any individual, partnership, corporation, association, or the state of Washington, its agencies, and political subdivisions to intercept, or record any:
 - (a) Private communication transmitted by telephone, telegraph, radio, or other device between two or more individuals between points within or without the state by any device electronic or otherwise designed to record and/or transmit said communication regardless how such device is powered or actuated, without first obtaining the consent of all the participants in the communication:
 - (b) Private conversation, by any device electronic or otherwise designed to record or transmit such conversation regardless how the device is powered or actuated without first obtaining the consent of all the persons engaged in the conversation.

Apprehension and Detention

Investigative personnel assigned to OEO do not have the police powers, therefore, they do not have the authority to apprehend or detain any person.

In addition, investigators cannot force an employee to cooperate. This includes making statements, turning over stolen resources or other documentation in their sole possession. If situations previously described are encountered, the investigator should call the Audit Office immediately for assistance.

Subpoena Power

Investigative personnel assigned to OEO do not have subpoena powers. Circumstances which require such action to obtain records et al, should be coordinated with the Washington State Office of the Attorney General representative assigned to WSDOT.

Administer Oaths

Investigative personnel do not possess notary authority and therefore do not take statements under oath.

Search and Retention of Property

Investigative personnel do have the authority to seek out and search for WSDOT property only within the facilities under WSDOT control. This understanding does not include private property on a state facility. In certain situations, legal counsel should be contacted regarding whether or not personal property may be taken as evidence. All property received, surrendered, or seized during an investigation will be recorded on a property receipt. All property received in this manner is to be secured and accounted for, until cleared for final disposition. Evidence tags/containers, and other storage materials are available through the Audit Office.

Coordination

During the course of an investigation, the investigator may develop information which indicates possible criminal activity or inappropriate civil or WSDOT administrative activity. In such event, information and evidence gathered will be presented to the Director of Audit for review and referral. Coordination may involve the Department Assistant Attorney General for his/her review and recommendations. In addition, coordination may also be made with the Offices of WSDOT Human Resources and Risk Management. Other state boards and agencies include, but are not limited to, the State Ethics Board; the State Auditor's Office, Washington State Patrol, and other local, state, or federal agencies as appropriate.

The investigator should be aware of the fact that under certain conditions involving federally funded programs, the inappropriate expenditure of funds, equated to fraud, waste, and abuse, may have to be reported to the funding agency immediately upon discovery.

Equipment and Resource Needs

OEO has statewide responsibility for investigations. When assignments are made, investigators may be required to respond in a matter of hours. The method of transportation could be on foot, state, personal, or rented/leased vehicle, airplane, or boat travel. These modes of transportation will either be arranged for the investigator or handled by the investigator personally. Normal state travel regulations apply when in travel status.

Conflict of Interest

No person shall obstruct, impede, or otherwise interfere with an investigation in which they or their subordinates have participated wholly or in part, directly, or indirectly.

No person shall involve themselves in any investigation in which they themselves have been a participant.

In the event of any conflict of interest in relation to an investigation, the investigation will be assigned to an independent and external investigative source to ensure impartiality.

P65:DP/EODM

In order to provide for internal administrative review and resolution of any outstanding issues regarding discrimination complaints or reasonable accommodations, the department hereby established the Equal Opportunity Committee (EOC).

The EOC's primary role is:

1. To hear any outstanding and pertinent concerns a Complainant and/or Respondent has, which were not reviewed in a discrimination or harassment case investigated by the Office of Equal Opportunity (OEO).
2. To review requests for reasonable accommodation when a mutually acceptable agreement cannot be reached between management and the employee requesting the accommodation.

Membership shall consist of:

1. The Secretary of Transportation (acts as Chair for the EOC).
2. The executive from whose organization the original complaint or appeal of reasonable accommodation was filed.
3. The Director for OEO who serves as an ex-officio (non-voting) member.
4. The Washington State Department of Transportation's (WSDOT) Human Resource Director or Washington State Ferries' Human Resource Director.

Responsibilities

1. Discrimination Complaints

The EOC is responsible for hearing appeals filed by the Complainant or Respondent on findings in department discrimination, harassment, and/or retaliation cases when an appeal is filed in writing (DOT Form 731-017EF Revised 3/2001, Attachment 11) or alternate format (if required by reasonable accommodation) within 15 calendar days of receipt of the finding. If the 15th calendar day falls on a weekend or holiday, the next working day will be considered to be the 15th day.

- a. For appeals requested by the Complainant, the appeal must be filed on the basis that all available information was not considered during the course of the investigation or that there was not an appropriate application of WSDOT policy and/or procedure.
- b. For appeals requested by the Respondent, the appeal must be filed on the basis that all available information was not considered during the course of the investigation or that there was not an appropriate application of WSDOT policy and/or procedure or they were not provided "due process" in accordance with the Discrimination Complaint Procedures identified in Chapter 2 of the *Equal Opportunity Desk Manual*. The Respondent will be responsible for identifying the process or procedure which they were denied.

2. Reasonable Accommodations

The EOC is responsible for reviewing reasonable accommodation efforts filed by the Person with Disability or the Appointing Authority on issues where a mutually acceptable accommodation cannot be agreed upon. The request for review must be filed in writing or alternate format (if required by reasonable accommodation) within 15 calendar days of denial of a reasonable accommodation. If the 15th calendar day falls on a weekend or holiday, the next working day will be considered to be the 15th day.

3. Representation

- a. If the appealing party plans to bring representation to the hearing, they must notify the Chair of the name and position of the representative(s) in writing no later than five business days prior to the hearing.

Procedures for Hearing Appeals

1. Appeals shall be addressed to the Chair of the EOC and received within 15 calendar days of notice of finding or denial of accommodation.
2. Appeals will be evaluated by the Chair of the EOC to determine if they meet the criteria set forth above.
 - a. The Chair may request the appealing party to provide additional background information prior to the Chair making a final determination on hearing the appeal.
 - b. If the appeal is not accepted, the Chair shall return the request to the appealing party with a written explanation for denying the hearing. A copy of the letter will also be forwarded to the other EOC members.
 - c. If the appeal is accepted, the Chair may request background information be provided prior to the hearing.
3. Appeals shall be scheduled for hearing by the Chair or her/his designee, normally within 30 days of receipt of the appeal. The Chair or her/his designee shall notify all involved parties of the hearing date and time.
4. All appeal hearings, unless changed by the Chair, shall be heard at the Olympia Service Center in the office of the Secretary of Transportation.
5. Based on the information presented at the appeals hearing, the EOC shall:
 - a. Discrimination Complaints
 - (1) Affirm the determination of OEO, or
 - (2) Return the file for further investigation by OEO, or
 - (3) Reverse or change the determination of OEO.
 - b. Reasonable Accommodations
 - (1) Direct the requested accommodation be implemented, or
 - (2) Direct other accommodations be implemented in lieu of requested accommodation, or
 - (3) Deny accommodation request.

6. The decision of the committee shall be communicated in writing to the appealing party, OEO, and the Appointing Authority.
7. This appeal process in no way precludes the appealing party from taking any other action to which they may be legally entitled.

7:P65:DP/EODM

The Washington State Department of Transportation (WSDOT) is committed to provide reasonable accommodation for persons with disabilities as each situation may require. Reasonable accommodation is an arrangement or modification that allows a person with disabilities to perform the essential job tasks for which they are otherwise qualified. The department will also ensure that access to programs, services, and communications of the department are provided to persons with disabilities in a timely manner.

To this end, all individuals within the department who have the responsibility of selecting, training, and supervising employees shall ensure they recruit, hire, train, promote, and transfer any individual who can perform the essential job duties with reasonable accommodation without regard to sensory, mental, or physical disability.

The Office of Equal Opportunity (OEO) will provide training and guidance to department managers in WSDOT policies and procedures relating to the Americans with Disabilities Act (ADA) of 1990. Additionally, OEO will act as the coordinating office for all requests for reasonable accommodation.

Reasonable Accommodation Procedures — Pre-Employment

Prior to an employment interview being conducted, the supervisor will review the Classification Questionnaire (CQ), or, for WSF union jobs, the job specification, and the Essential Job Functions form for the position to ensure they are accurate.

During the interview process, the interviewing supervisor will review the CQ, or, for WSF union jobs, the job specification, and the Essential Job Functions form with the applicant to ensure the requirements for the position are thoroughly understood. Once this understanding is developed, the interviewing supervisor will have the applicant sign the Essential Job Functions form.

During the interview, interviewers may ask the applicant, “Can you, with or without reasonable accommodation, perform the essential job functions?” If the applicant’s reply is no, the interview may be terminated. If the applicant’s reply is yes, the interview should proceed to select the best qualified applicant. Consideration of a specific reasonable accommodation will occur only after an employment offer has been made.

Employment decisions may not be based upon the need for accommodation unless the accommodation places an “undue hardship” on the employer, does not allow accomplishment of essential job functions, or creates a safety hazard.

<i>Action By</i>	<i>Action</i>
-------------------------	----------------------

<i>Action By</i>	<i>Action</i>
Supervisor	

- | | |
|--|--|
| | <ol style="list-style-type: none">1. DOT Form 750-015, Essential Job Functions, is completed as an attachment to the CQ, or, for WSF union jobs, the job specification, at the time the position is established, its duties are substantially revised, or prior to obtaining a referral to fill that position. |
|--|--|

2. Prior to the employment interview, the supervisor will review Form 753-015, Essential Job Functions, and Form SF-570, CQ, or, for WSF union jobs, the job specification, for accuracy and update if necessary.
3. Form 753-015, Essential Job Functions, and the CQ, or, for WSF union jobs, the job specification, are to be read and discussed with each referred candidate during the employment interview.
4. Each interviewed candidate must sign a copy of Form 753-015, Essential Job Functions, which relates to the position for which they are interviewing.
5. The interviewer completes interviews and recommends selection to the appropriate appointing authority. Records shall be retained for compliance with WSDOT's Affirmative Action in Recruitment and Appointments procedures.

Appointing Authority

1. Make offer of employment to best qualified candidate regardless of the need for reasonable accommodation.

Reasonable Accommodation Procedures — Post-Employment Offer

All individuals offered employment will complete DOT Form 750-054, Medical Inquiry/Surveillance.

Any employee or applicant who refuses to sign DOT Form 750-015, Essential Job Functions, and DOT Form 750-054, Medical Inquiry/Surveillance, or who refuses a post-offer medical evaluation shall have the offer of employment or promotion rescinded by the appointing authority.

Medical evaluations following an offer of employment may be required if there is a need for medical assessment:

- To assist in developing a reasonable accommodation.
- If the information on DOT Form 750-054, Medical Inquiry/Surveillance, indicates a potential "direct threat" to the safety of the applicant, to his or her prospective coworkers, or to the general public.
- To comply with the requirements of established medical surveillance programs.

All health and medical information will be kept separate from Personnel records in a Health and Safety File.

Costs of agency-directed medical evaluations shall be covered by the agency.

In order to determine the alternative forms of accommodation, OEO will obtain appropriate technical assistance.

Reasonable accommodation requiring expenditures, schedule adjustments, work place modifications, or other alternatives which do not exceed the authority of the appointing authority, or place an "undue hardship" on the employer, may be agreed upon with the candidate, documented, and the documentation forwarded to OEO.

If the appointing authority, within the latitude of his/her discretion, determines that a disability cannot be reasonably accommodated, s/he will document that determination and forward the information to OEO for review prior to a final determination. OEO will coordinate with Capital Facilities, or at WSF, with the Engineering Department, for those accommodations which may require facilities modifications.

If a mutually acceptable agreement cannot be reached, the employee may request a review and determination by the Equal Opportunity Committee (EOC).

Action By	Action
Job Applicant	

1. It is the responsibility of the selected applicant to identify the need for accommodation to accomplish essential functions of the position.
2. Complete DOT Form 750-054, Medical Inquiry/Surveillance.

Appointing Authority

1. The employment offer to a selected candidate will be conditioned on completion and review of DOT Form 750-054, Medical Inquiry/Surveillance. This form will not be provided to candidate prior to an employment offer. This completed form will be forwarded to appropriate safety office for review.

Safety Office

1. Review completed DOT Form 750-054.
2. Notify appointing authority of either:
 - a. Concurrence with the hiring.
 - b. The need for a medical evaluation prior to the beginning of employment.
3. Schedule medical evaluations as necessary.
4. A medical evaluation indicating restrictions requiring accommodation will be referred back to the appointing authority.

Appointing Authority

1. Seek advice and assistance from OEO.
2. The offer of employment may not be rescinded because of the candidate's inability to perform the essential job functions of the position without a review of the pertinent documentation by OEO.
3. Reasonable accommodation requiring expenditures, schedule adjustments, workplace modifications, or other alternatives which do not exceed the authority of the appointing authority, or place an "undue hardship" on the employer, may be agreed upon with the candidate, documented, and filed with OEO.

4. If the appointing authority determines that a disability cannot be reasonably accommodated, the appointing authority will document that determination and forward that information to OEO for review prior to a final determination.

OEO

1. Coordinate with Capital Facilities, or at WSF, with the Engineering Department, for those accommodations which may require facility modifications.
2. Coordinate with appropriate technical services to determine, as completely as possible, the circumstances surrounding the request for accommodation and all possible solutions.
3. Following review by all appropriate offices, provide a consolidated recommendation to the appointing authority.

Employee

1. Accept the reasonable accommodation; or
2. Appeal the reasonable accommodation offer to the EOC.
3. Individuals also have the right to file complaints with the Washington State Human Rights Commission (RCW 49.60) or with the federal Equal Employment Opportunity Commission (Title VII, Civil Rights Act of 1964).

Reasonable Accommodation Procedures — Employees

It is the employee's responsibility to notify the supervisor of any condition which affects his/her ability to perform assigned tasks. This includes employee's use of prescription or nonprescription drugs as referenced by the department's interim Drug and Alcohol Directive D 73-40, and, for WSF employees, the WSF Drug and Alcohol Policy and Education Program.

If an employee is away from work due to serious illness or injury (i.e., heart surgery, back surgery, contagious disease, etc.), they will provide objective findings from the treating physician releasing them to perform the essential functions of the position prior to returning to work. The employee will be provided assistance in this process by the appropriate safety office. Communications with the treating physician will be kept in the confidential health and safety file.

Once notification of the need for reasonable accommodation is received, the supervisor will notify OEO of the situation.

In order to determine the alternative forms of accommodation, OEO will obtain appropriate technical assistance.

Reasonable accommodation requiring expenditures, schedule adjustments, workplace modifications or other alternatives which do not exceed the authority of the appointing authority, or place an "undue hardship" on the employer, may be agreed upon with the employee, documented, and the documentation forwarded to OEO (see Appendix 3).

If the reasonable accommodation requires the waiving of seniority and/or job assignment rules in a collective bargaining agreement, the appointing authority will request the union to agree, in writing, to a waiver of such rules. If the union does not agree to such waiver, its refusal shall be documented in writing, and the employee shall be notified that his/her request for accommodation is not in compliance with the collective bargaining agreement. The employee shall also be notified of the union's refusal to waive bargaining agreement rules.

If the appointing authority, within the latitude of his/her discretion, determines that a disability cannot be reasonably accommodated, s/he will document that determination and forward the information to OEO for review prior to a final determination. OEO will coordinate with Capital Facilities, or, at WSF, with the Engineering Department, for those accommodations which may require facilities modifications.

If a mutually acceptable agreement cannot be reached, the employee may request a review and determination by the EOC.

Fitness for Duty Evaluation Procedures (Permanent Employees)

Supervisor

1. The immediate supervisor will document (1) observable difficulties in the employee's ability to perform the essential job functions or (2) unusual on-the-job behavior.
2. The immediate supervisor will counsel the employee concerning job performance and will consider any reasonable request for assistance made by the employee.
3. If it is necessary to determine the employee's ability to perform essential job functions, the supervisor should arrange for a "fitness for duty" medical examination through the appropriate safety officer.

Safety Officer

1. The appropriate safety officer will arrange for an examination by a licensed physician and will provide the physician with DOT Form 750-015, Essential Job Functions, and letter documenting observed performance limitations. Physicians shall focus on:
 - a. Whether the individual is currently able to perform the essential functions of the assigned position, with or without reasonable accommodation.
 - b. Whether this person can perform the essential functions of the position without posing a direct threat to the health or safety of him/herself or to others.
2. Reports from the physician returned to the Safety Office will be included in employee's "Health and Safety" file. The safety officer will advise the appointing authority and/or supervisor of the physician's recommendations as necessary.

3. Reports indicating no medical basis for performance problems will be referred back to the supervisor for alternate supervisory measures to address the issues. Reports indicating a medical basis for performance problems will be evaluated by the appropriate safety officer and will be referred to the appointing authority regarding the need for and type of permanent or temporary accommodation measures. Should the appointing authority determine that accommodation is not available, that decision will be referred to OEO for a review and final recommendation.

Temporary disability will be treated according to “Return-to-Work” procedures (refer to D 75-04).

All costs for agency-directed fitness for duty examinations will be borne by the Olympia Service Center Safety Office, except for WSF, where the costs will be borne by the WSF Safety Office.

4:F:EODM1

Appendix 1 — Essential Job Functions (DOT Form 750-015)

(Page 1 of 2)



**Washington State
Department of Transportation**

Essential Job Functions

Instructions: This form must be attached to the existing Classification Questionnaire (CQ) SF 570, or for WSF union positions, the Job Specifications, and must be updated every time the CQ or Job Specifications are updated. The Classification Questionnaire or Job Specifications describe the particular duties of the position.

The form is to be filled by the supervisor of the position and signed by the applicant/incumbent.

If you have any questions or need help completing this form contact the WSDOT Safety Office, the WSDOT Personnel Office or the Office of Equal Opportunity. WSF Personnel contact the WSF Safety Office or WSF Personnel Office.

1 Essential Job Functions

Position # _____ Job Class Code _____
Job Class Title _____

Essential Function: The essential functions of a job are those that the individual who holds the position MUST be able to perform in order for the employer's business to function. These functions can be accomplished unaided or with the assistance of a reasonable accommodation. These things are generally true of an essential function:

The position exists to perform that function.

There are no other employees available to perform that function.

A function is highly specialized, and the person in the position is hired for special expertise or ability to perform it.

It is performed on a regular basis.

Removing the function fundamentally alters the position.

Examples:

It is essential that the incumbent clear drainage.

Incumbent provides information to the public over the phone/counter.

Incumbent assists on survey crew. Example: setting hubs and stakes, cutting brush, chaining and rodding.

Incumbent operates nuclear densimeter.

Incumbent produces CADD generated detail drawings.

2 Essential Functions

DOT Form 750-015 EF
Revised 5/95

Actual form is 8.5" x 11"

(Page 2 of 2)

2	Essential Functions	Continued
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Reasonable Accommodation: Many individuals with disabilities are qualified to perform the essential functions of jobs without need of any accommodation. However, if an individual with a disability who is otherwise qualified cannot perform one or more essential job functions because of his or her disability, the agency, in assessing whether the person is qualified to do the job, must consider whether there are modifications or adjustments that would enable the person to perform these functions. Such modifications or adjustments are called "reasonable accommodations". Although it may be essential that a certain function be performed, it may not be essential that it be performed in a particular way. A reasonable accommodation may be as simple as wooden blocks under a desk to raise the desk height so that a person in a wheelchair can sit comfortably.

Examples:

In a job requiring use of a personal computer, the essential function is the ability to access, input, and retrieve information from the computer. It is not "essential" that a person in this position enter information manually, or visually read the information on the screen. Adaptive devices or computer software can enable a person without arms or a person with impaired vision to perform the essential functions of the position.

A telephone receptionist who has a hearing impairment can add an amplifier to the telephone so that callers can be heard. In this case, the essential function of the job is answering the telephone, and a reasonable accommodation is the amplifier.

Qualified Individual with a Disability: A qualified individual with a disability is one who can perform the essential functions of the position with or without reasonable accommodation.

3	Signatures	
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I have read and understood the essential functions of this position. ☐ Yes ☐ No

I can with or without accommodation perform these essential functions. ☐ Yes ☐ No

I hereby certify that the information given on this form is complete and correct to the best of my knowledge.

Signature of Applicant/Incumbent _____ Date _____

Signature of Supervisor _____ Date _____

Safety Officer: Post offer medical evaluation required: ☐ Lead ☐ Hearing ☐ Other: _____

DOT Form 750-015 EF
Revised 5/95

Actual form is 8.5" x 11"

Appendix 2 — Medical Inquiry/Surveillance (DOT Form 750-054) (Page 1 of 2)



Washington State
Department of Transportation

Medical History Record

The Washington State Department of Transportation has a responsibility to assign work functions consistent with the employee's physical/mental/sensory abilities and/or attempt to reasonably accommodate the ability to perform essential functions. This agency is also mandated to manage a medical surveillance program for employees exposed to noise, asbestos, lead, or other substances in the performance of their work functions. The information provided on this form will assist the agency to meet these requirements. Information will be used to assist reasonable accommodations, support medical surveillance, and manage the workers compensation program. **All information is strictly confidential and filed separate from the Personnel File in the Employee Safety and Health File.**

Section 1		Employee Demographic Information	
Today's Date	Full Name		Previous Name
Social Security Number	Supervisor		
Person to Notify in an Emergency			
Name	Relationship	Work Phone Number	Home Phone Number
Address			
Section 2		Medical History	
Yes	No		
		Do you exercise regularly?	
		Do you get short of breath or have to stop while walking on level ground?	
		Do you get short of breath or have to stop while hurrying or walking on an incline?	
List any drugs, medicines, chemicals, vitamins, or minerals you are currently taking:			
Do you have any allergies? <input type="checkbox"/> Yes <input type="checkbox"/> No If "Yes", please explain:			
Have you had an allergic reaction to any food or medicine in the last year? <input type="checkbox"/> Yes <input type="checkbox"/> No If "Yes", please explain:			
Has your weight changed in the last year? <input type="checkbox"/> Yes <input type="checkbox"/> No Was the change intentional? <input type="checkbox"/> Yes <input type="checkbox"/> No If "Yes", by how much? Gained _____ Lost _____			
Do you consider yourself to be in good health? <input type="checkbox"/> Yes <input type="checkbox"/> No If "No", please explain:			
Yes	Year	Condition	Yes Year Condition
		Hay Fever	Drainage from the ear
		Asthma	Excess ear wax
		Nose or sinus trouble / Sinusitis	Ringing/hoises in the ear
		Persistent cough or lung trouble	Earaches or infections
		Chronic Bronchitis	Family history of hearing loss before age five
		Bronchiectasis	Face numbness
		Pneumonia	Diabetes
		Emphysema	Scarlet fever
		Heart pain, trouble, or attack	High fever
		Heart Murmur	Blow to the ear
		Heart Palpitations	Scuba diving accident
		High blood pressure	Damaged ear drum
		Stroke	Back or spinal injury
		Pleurisy	Paralysis of any type
		Hypertension	Convulsions, Epilepsy, or seizure pattern
		Blackout or spells of dizziness and/or fainting	Anemia, or other blood disease
		Head injury, skull fracture, or Concussion	Hardening of the arteries
		The need to wear glasses or contacts	Hemophilia
			Pleuritis or blood clot
			Sciatica or dislocated joints
			Knee injury or swollen joints
			Scoliosis
			Osteoporosis
			Bone infection or fracture
			Rheumatism or Arthritis
			Cancer
			Growth or tumors
			Skin trouble, rashes, or boils
			Acne problem
			Cirrhosis
			Hepatitis
			Thyroid trouble
			Kidney trouble or stones
			Hernia
			Jaundice or liver trouble
			Urinary or bladder trouble
			Gout
			Unusual loss or growth of body hair
			Surgery
			Other (Please Specify)
For each condition marked "Yes" explain exact condition, dates of and present state of condition, and name and address of physician and/or hospital (Use additional sheets if necessary):			
Are you presently under a doctor's care? <input type="checkbox"/> Yes <input type="checkbox"/> No If "Yes", please explain (Use additional sheets if necessary):			
Section 3		Exposure History	
Yes	No	Have you ever had:	
		Allergic or sensitization reactions from inhalation or skin contact?	
		Bacterial or fungal infections from inhalations or dust?	
		Irritation of nose and throat caused by inhalation of dusts, mists, fumes, gases, or vapors?	
		Damage to internal tissues caused by inhalation of dusts, mists, fumes, gases, or vapors?	
		Metal-fume Fever?	
		A systematic reaction of the whole body caused by inhalation of dusts, mists, fumes, gases, or vapors?	

DOT Form 750-054
Revised 2/94

◆ Supersedes Previous Editions ◆

Actual form is 8.5" x 14"

(Page 2 of 2)

Section 3		Exposure History (Continued)
Have you ever had an occupational illness? <input type="checkbox"/> Yes <input type="checkbox"/> No If "Yes" specify illness date(s) and present condition (Use additional sheets if necessary):		
Do you ever cough when you don't have a cold? <input type="checkbox"/> Yes <input type="checkbox"/> No		
How long have you had your cough? <input type="checkbox"/> Less than 2 years <input type="checkbox"/> 2 to 5 years <input type="checkbox"/> More than 5 years		
In the past 2 years have you seen a doctor about your cough? <input type="checkbox"/> Yes <input type="checkbox"/> No Please explain:		
Have you coughed up blood during the last year? <input type="checkbox"/> Yes <input type="checkbox"/> No If "Yes" have you seen a doctor about this condition? <input type="checkbox"/> Yes <input type="checkbox"/> No		
During the past 3 years how often were you unable to do your usual activities because of respiratory illnesses? (Do not include head colds) <input type="checkbox"/> Never <input type="checkbox"/> Once <input type="checkbox"/> 2 to 5 times <input type="checkbox"/> 6 or more times		
How many days did this happen in the last year?		
Have you had a Chest X-Ray? <input type="checkbox"/> Yes, it was normal <input type="checkbox"/> Yes, it was abnormal <input type="checkbox"/> No		
Do you now or have you ever chewed tobacco or used snuff (smokeless tobacco)? <input type="checkbox"/> Yes <input type="checkbox"/> No If "Yes" how long did you (have you been) using smokeless tobacco? _____ years Are you still using smokeless tobacco? <input type="checkbox"/> Yes <input type="checkbox"/> No		
Do you now or have you ever smoked a pipe or cigars? <input type="checkbox"/> Yes <input type="checkbox"/> No Do you still smoke a pipe or cigars? <input type="checkbox"/> Yes <input type="checkbox"/> No		
Do you now or have you ever smoked cigarettes regularly? <input type="checkbox"/> Yes <input type="checkbox"/> No If you no longer smoke cigarettes, when did you stop (mo/yr)? _____		
Were you influenced to stop because of a cough, a wheeze, shortness of breath or any other respiratory problem? <input type="checkbox"/> Yes <input type="checkbox"/> No		
Have you served in the military? <input type="checkbox"/> Yes Years _____ <input type="checkbox"/> No		
Were you involved in artillery fire, flying, or engine maintenance? <input type="checkbox"/> Yes Years _____ <input type="checkbox"/> No		
Has shooting been a hobby of yours? <input type="checkbox"/> Yes Years _____ <input type="checkbox"/> No		
Have you been exposed to loud music? <input type="checkbox"/> Yes Years _____ <input type="checkbox"/> No		
Have you operated home power tools? <input type="checkbox"/> Yes Years _____ <input type="checkbox"/> No		
Do you operate motorcycles, boats, or off-road vehicles? <input type="checkbox"/> Yes Years _____ <input type="checkbox"/> No		
Have you ever had physician care of your ears? <input type="checkbox"/> Yes <input type="checkbox"/> No If "Yes" Please explain:		
Which is your better hearing ear? <input type="checkbox"/> Left <input type="checkbox"/> Right <input type="checkbox"/> Both the Same		
Do you now or have you ever suffered from hearing loss? <input type="checkbox"/> Yes <input type="checkbox"/> No If "Yes", please explain (Use additional sheets if necessary):		
Have you had any previous hearing tests? <input type="checkbox"/> Yes <input type="checkbox"/> No If "Yes", please list date(s) and location(s):		
Have you ever been exposed to asbestos or any other fibrous dust? <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Don't Know		
How many years have you been exposed? _____ Did you wear protective devices? <input type="checkbox"/> Always <input type="checkbox"/> Sometimes <input type="checkbox"/> Never		
Have you been exposed to sandblasting? <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Don't Know		
How many years have you been exposed? _____ Did you wear protective devices? <input type="checkbox"/> Always <input type="checkbox"/> Sometimes <input type="checkbox"/> Never		
Have you been exposed to spray painting? <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Don't Know		
How many years have you been exposed? _____ Did you wear protective devices? <input type="checkbox"/> Always <input type="checkbox"/> Sometimes <input type="checkbox"/> Never		
Have you been exposed to welding fumes? <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Don't Know		
How many years have you been exposed? _____ Did you wear protective devices? <input type="checkbox"/> Always <input type="checkbox"/> Sometimes <input type="checkbox"/> Never		
Have you been exposed to any other hazardous materials? <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Don't Know If "Yes", please describe material and length of exposure (Use additional sheets if necessary):		
Section 4		Claim History
Yes	No	
		Have you ever claimed or received compensation for temporary or permanent disability?
		Have you ever been rejected for a claim?
		Have you ever been rejected or discharged from a job or military service because of health or any other condition?
		Have you ever had an on-the-job injury which required treatment by a physician?
For each question answered "Yes" above specify injury, date, and present condition:		
Section 5		Signature
I hereby certify that the information given on this form is complete and correct to the best of my knowledge.		
Signature _____		Date _____

DOT Form 750-054
Revised 2/94

Actual form is 8.5" x 14"

Appendix 3 — Sample Accommodation Letter (Page 1 of 2)



**Washington State
Department of Transportation**

Month Date, Year

Name
Street Address
City, State Zip

Dear (Name):

You have advised me that due to a medical condition, documented by your physician (Name of Physician), you are unable to perform your current duties as a (Job Classification). This concern has been further documented by (Vocational Consultant) of the (Consulting Firm).

You have requested, and the Washington State Department of Transportation has agreed, as a reasonable accommodation for your disability, to comply with the recommendations made by the (Consulting Firm or Person making Recommendations). These reasonable accommodations will involve:

(List reasonable accommodations.)

You have indicated, and your physician concurs, that these reasonable accommodations will enable you to properly perform your work as a valued member of this organization and the Washington State Department of Transportation.

If further accommodations are deemed necessary in the future, please feel free to contact your supervisor or the Washington State Department of Transportation Office of Equal Opportunity for assistance.

Actual letter is 8.5" x 11"

(Page 2 of 2)

Name
Date
Page 2

This agreement shall be subject to review every _____ days.

Sincerely,

(Signature of Appointing Authority)

Agreed to and acknowledged:

(Date)

(Signature)

Actual letter is 8.5" x 11"

This chapter focuses on the procedures that hiring authorities must follow when making permanent appointments from established registers to civil service positions. This chapter also provides guidance on the department's affirmative action goals as they relate to nonpermanent and other exempt appointments.

Affirmative Action Goals

Affirmative action goals for hiring and promotions will be established in accordance with the Washington State Department of Transportation (WSDOT) Affirmative Action Plan. These goals will be incorporated into the Quarterly Utilization Analysis published by the Internal Civil Rights Branch (ICRB). The report will be used by personnel representatives when certifying names of eligible candidates to hiring authorities.

Open Competitive Recruitment

The ICRB will work with DOP to ensure that copies of Open Competitive (OC) recruitment announcements for WSDOT's agency unique positions are distributed to regional protected group organizations. ICRB may, as needed, distribute copies of the recruitment announcement to national protected group organizations.

Local list administrators will distribute local list recruitment announcements to regional protected group organizations listed in the Recruitment Resource Directory published by the ICRB.

Managers conducting open competitive recruitment through the College Recruitment Program (CRP) shall distribute copies of the recruitment announcement to colleges and universities whose student population will increase the organization's opportunity to meet its targeted affirmative action goals. The ICRB will assist in determining appropriate colleges and institutions.

Target Recruitment

Region and Olympia Service Center personnel representatives shall work with the ICRB to ensure that OC registers previously established to fill future vacancies contain a sufficient number of protected group candidates to meet the department's targeted affirmative action goals. When there are less than three targeted protected group candidates on an OC register with availability for a particular region or Olympia Service Center division, the Personnel Office responsible for that region or service center shall:

- a. Contact ICRB for assistance in soliciting applications and conducting special testing from qualified candidates who are members of the targeted protected group.
- b. Write letters to recruitment sources representing the protected group asking the representatives of these organizations for assistance in soliciting applications for special testing from qualified protected group candidates who would meet the department's affirmative action goals.

- c. Attend career fairs and other community functions to advise targeted protected group organizations of employment opportunities.
- d. Confer with ICRB on the placement of advertisements in newspapers and other media that represent the targeted protected group.
- e. These procedures will not delay an appointment to fill a current vacancy.

Certification of Candidates

Hiring authorities who wish to fill a classified position on a permanent, seasonal, or project basis may do so by obtaining a certification of qualified candidates from an employment register or by filling the position with a transfer, voluntary demotion, or elevation candidate.

Hiring authorities who wish to fill the vacancy through the certification process should submit a Recruitment/Certification Request (DOT Form 732-002) to their region or Olympia Service Center Personnel Office.

Upon receipt of a Recruitment/Certification Request, the region/service center personnel representative shall:

- a. Ensure that the position has been established and is properly allocated.
- b. Check the Quarterly Utilization Analysis to determine if the region/division requesting the certification has met its targeted affirmative action goals for the classification they are attempting to fill.
- c. Obtain a certification of names by accessing DOP's computerized Automated Register Maintenance System (ARMS) or, when dealing with local list classifications (e.g., Maintenance Technician 1), the appropriate local list register. This certification will include the names of the top seven candidates on the register and up to three supplemental "Plus 3" protected group candidates.

If the organization's targeted affirmative action goals have not been met, the names of these "Plus 3" candidates shall be drawn from the top candidates on the register whose appointment would assist the department in meeting its targeted affirmative action goals.

If the organization's affirmative action goals have been met, these supplemental names will be drawn from candidates on the register who are members of protected groups identified in the Quarterly Utilization Analysis as underutilized in relationship to the group's availability in the labor market.

- d. Forward the names of employees who have completed the department's Application for Transfer, Voluntary Demotion, and Elevation Form (DOT Form 732-046) and expressed an interest in transferring, demoting, or elevating to where the vacancy is located.

Structured Interview Process

When personnel certifies a list of eligible candidates whose appointment would assist the department in meeting a targeted affirmative action goal, such names shall be identified on the certification as "Targeted Plus 3" candidates. Unless otherwise authorized by the Deputy Secretary for Operations, the hiring authority shall invite all candidates whose names appear on the certification to interview for the position.

Prior to making an appointment, the hiring authority shall develop structured job related interview questions and a scoring matrix using the following guidelines:

- a. Structured interview questions should focus on the candidate's knowledge, skills, and abilities (KSAs) to perform key functions of the position being filled as shown on the Classification Questionnaire (CQ) for the position.

When developing questions and rating the candidate's responses, the hiring authority should consider whether the candidate could acquire these KSAs during the probationary or trial service period.

- b. Determine a point value for general experience based on how long it takes appointees to become proficient in the position. If it requires three years to become proficient in a given position, candidates with ten years of general experience should not receive more interview points than candidates with only three years of such experience.
- c. Additional interview points can be given to candidates who possess specific experience that is equivalent to or directly related to the duties of the position being filled.
- d. Determine a point value for education and training based on the education required in the minimum or desirable qualifications contained in the class specification. Candidates with general education beyond that specified in the class specification should not receive more interview points than candidates who possess the minimum education requirements.

By comparison, experience in lieu of education should be given a point value that is proportionate to that provided to the education option specified in the minimum qualifications.

- e. Additional points can be given to candidates who possess specific education or training that is directly related to the position being filled.
- f. Subjective questions relating to the candidate's attitude or enthusiasm will not be used during the interview.
- g. All candidates will be asked the same questions and will be graded on their objective responses.
- h. The supervisor conducting the interview will review the CQ and Essential Job Functions form with each candidate at the beginning of the interview. After this review, each candidate will be asked, "Can you, with or without accommodation, perform the essential functions of the position?" (See Reasonable Accommodation chapter.)

Selection Process

All probationary and trial service appointments of nontargeted candidates will be reviewed by the ICRB or regional Affirmative Action Officer prior to offers of appointment being made.

If a targeted "Plus 3" candidate is being selected, the appointing authority will submit a copy of the appointment letter to the ICRB advising them of the name of the selectee and the position number of the position being filled.

If no “Plus 3” candidates are referred for consideration, the appointing authority shall, after making the appointment, submit a memorandum to the ICRB advising them of the name of the selectee, the number of the position being filled, and the fact that no “Plus 3” candidates were referred.

Justification for Nonselection of “Targeted Plus 3”

If, after interviewing the available candidates, the hiring authority proposes to appoint a nontargeted candidate, the hiring authority shall complete a Justification of Proposed Appointment form (DOT Form 732-063), and submit the completed form to ICRB or their regional Affirmative Action Officer for review and concurrence. In addition to the form itself, the hiring authority shall submit copies of the following documents in support of the proposed selection decision:

- a. The CQ for the position being filled.
- b. A list of the questions asked of each candidate.
- c. The value or weight given to each interview question or category of questions (e.g., scoring matrix).
- d. The interviewer’s notes on all of the candidate’s responses to the interview questions.
- e. All other documentation/information that influenced the proposed selection decision.
- f. Unsatisfactory reference(s) may be cited as justification for nonselection of a Targeted Plus 3 candidate. If references are checked on targeted protected group candidates, they must be checked on the preferred nonprotected group candidate as well.
- g. A decision to appoint a transfer, voluntary demotion, or elevation candidate may be used as justification for nonselection of a “Targeted Plus 3” candidate.
- h. Subjective comments relating to the candidate’s attitude or enthusiasm should not be used to justify the nonselection of protected group candidates. However, direct statements that are made by a candidate may be included as part of the justification for nonselection. Quotes or paraphrases of these statements should be included in the justification.

All Justifications of Proposed Appointments will be reviewed by the ICRB or regional Affirmative Action Officer for consistency with the objectives of WSDOT’s Affirmative Action Policy. If the ICRB does not concur with the Justification of Proposed Appointment, alternative courses of action will be discussed with the appointing authority or designee. If agreement cannot be reached on an alternative course of action, the appointing authority may ask the Deputy Secretary for Operations to resolve the matter.

College Recruitment Process

Justification statements will not be required for the classification of Transportation Engineer 1 (TE-1) and other classes filled through the college recruitment processes. Such recruitments will be coordinated by representatives of the Olympia Service Centers Office of Human Resources and shall be made in accordance with the department’s affirmative action goals. The ICRB will be advised of each recruitment.

Progress Reports

ICRB will publish a quarterly Affirmative Action Workforce Utilization Report identifying the progress each region/service center has made toward meeting its affirmative action goals. This report will be provided to WSDOT Executive Management and personnel representative for each region/service center.

Temporary and Other Nonpermanent Appointments

In an effort to enhance the department's commitment to diversity in the work force, the following procedures for employment of temporary and other nonpermanent employees are established.

1. Nonpermanent Engineering and Maintenance Appointments

When making temporary or other nonpermanent appointments to engineering and maintenance positions, management should give priority to qualified protected group candidates who, if hired on a permanent basis, would aid the department in meeting its affirmative action goals. Goals for temporary hires will be the same as those set for permanent hires under the department's Affirmative Action Plan.

2. General Nonpermanent Appointments

When making nonpermanent appointments to other than maintenance and engineering positions, a goal of 50 percent of nonpermanent appointments should come from qualified protected group candidates who, if hired on a permanent basis, would assist its organization in meeting its targeted affirmative action goals.

Managers and personnel representatives will maintain a file of applications received from protected group candidates. Hiring authorities may find it necessary to conduct target recruitment in their local areas to ensure that they have an adequate applicant pool of protected group candidates to meet their nonpermanent appointment needs. The ICRB is also available to assist in this effort.

Each region/service center will be required to provide a quarterly report to OEO outlining their attainment towards these goals, or reasons for nonattainment.

Executive Exempt Appointments

In accordance with the Governor's Executive Order 93-07, the agency's executive team profile shall be submitted to the Governor's Staff Director. All proposed appointments to an executive exempt position shall be submitted to the Governor's Staff Director for approval before the prospective candidate is hired.

For each executive exempt position that is to be filled through an open competitive recruitment, the ICRB will work with DOP to ensure that copies of exempt recruitment announcements are distributed to regional or, as needed, national protected group organizations.

As part of the recruitment process, all recruitment announcements for WSDOT executive exempt positions shall ask candidates for voluntary information regarding their Affirmative Action Status (Appendix 5).

If a targeted protected group candidate is not selected, the procedures under "Justification for Nonselection of 'Targeted Plus 3'" apply.

Washington Management Service

Target recruitment of OC and service-wide promotional candidates may be conducted where it is expected that agency recruitment will result in an inadequate supply of targeted protected group candidates.

If, after interviewing the available candidates, the appointing authority proposes not to appoint one of the targeted protected group candidates, the hiring authority will complete a Justification of Proposed Appointment form and submit the completed form through their Regional Administrator/Assistant Secretary for review/approval and to the ICRB for concurrence.

5:F:EODM1

(Page 2 of 2)

17. +3 Candidates Referred (circle number of any who waived; add replacements)			
	Inter-viewed	Name	Comments and Comparisons Related to Key Job Elements
a.			
b.			
c.			
d.			
e.			
18. ADDITIONAL BASIS FOR SELECTION / REJECTION			

DOT 732-063
Revised 1/93

SIDE 2 OF 2

Actual form is 8.5" x 11"

This chapter is designed to provide guidelines for the processing of discrimination complaints filed against the department with administrative enforcement agencies, such as the Equal Employment Opportunity Commission (EEOC) and the Washington State Human Rights Commission (HRC) or any other outside agency charged with the responsibility for investigating allegations of civil rights violations.

Any department employee or individual who believes that they have been discriminated against on the basis of national origin, race, color, creed, religion, age, sex, marital status, sexual orientation, disability, status as a disabled or Vietnam-era veteran, or who has been retaliated against for participation in the investigation into allegations of discrimination may file a complaint with the EEOC or HRC. Complaints filed with the EEOC must be filed within 300 days of the alleged discriminatory incident. Complaints filed with the HRC must be filed within 180 days of the alleged discriminatory incident. Whistle-blowers may file retaliation complaints with the HRC.

The department is committed to resolving EEOC/HRC complaints in a timely and professional manner. The individuals representing the department will maintain professionalism and fully cooperate with the EEOC/HRC personnel at all times. Any manager or supervisor who receives an EEOC/HRC complaint directly must contact the Office of Equal Opportunity, Internal Civil Rights Branch (ICRB) in order to prepare a timely response.

Procedures

<i>Action By</i>	<i>Action</i>
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Diversity Program Administrator (DPA)	
--	--

- | | |
|--|--|
| | <ol style="list-style-type: none">1. Receives written complaint from EEOC/HRC.2. Analyzes complaint to determine jurisdiction.3. Notifies appropriate appointing authority that a complaint filed at an outside enforcement agency has been received.4. With the appointing authority, determines if mediation is a feasible option to pursue for an early resolution.<ol style="list-style-type: none">a. If yes, notify EEOC/HRC of the department's desire to enter into mediation to resolve the issues.b. If no, assigns investigator to case for action. |
|--|--|

Secretary Administrative

5. Receives written complaint, stamps date, logs receipt, prepares case file.
6. Provides copy of complaint to assigned investigator.

Human Resource Consultant

7. Contact the appropriate human resource officer to coordinate the department's response.
8. Schedule interview with respondent within 15 days of receipt of complaint.
9. Review complaint with respondent. Obtain respondent's input as to the department's position.
10. Obtain documentation (if any) supporting department's response.
11. Interview additional witnesses, if necessary, to confirm department's response.
12. Prepare department's response for review and approval of DPA and appointing authority.
13. If investigator believes probable cause will be determined:
 - a. Notify DPA, Risk Manager, and appointing authority of reasons for probable cause. Recommend mediation be requested.
 - b. Contact EEOC/HRC to arrange for mediation. Ensure appointing authority and DPA attend. If settlement may include compensation, ensure the Risk Manager attends.
14. If investigator believes no probable cause will be determined transmit department's response to EEOC/HRC.
15. After EEOC/HRC assigns an investigator, act as department liaison to coordinate investigation.
16. Attend all interviews involving department managers and supervisors.
17. Provide EEOC/HRC with all requested documentation.
18. If notified by EEOC/HRC that the investigator is going to issue a probable cause finding, request time to discuss with department management and arrange for a pre-finding settlement offer.
19. Coordinate settlement efforts with Risk Manager and EEOC/HRC.

Diversity Program Administrator

20. Reviews and approves/modifies recommendations from Administrator investigator.
21. Provides input to the department Employee Relations Manager as to case facts and settlement recommendations.

Human Resource Consultant

22. Finalizes complaint file. Ensures all required documentation is in place.
23. Notifies appointing authority of final outcome of complaint. Provides copies of EEOC/HRC documentation as required.
24. Closes case file and returns to Secretary Administrative for archiving.

11:P65:DP/EODM

This chapter is designed to provide guidelines for the processing of Section 504 complaints alleging discrimination based on disability filed against the department or local agencies with the U.S. Department of Justice (USDOJ).

Any department employee or individual who believes that they have been discriminated against on the basis of their disability may file a complaint with the U.S. Department of Justice.

The department is committed to resolving Section 504 complaints in a timely and professional manner. The individuals representing the department will maintain a professional and cooperative attitude with the U.S. Department of Justice at all times.

Procedures

<i>Action By</i>	<i>Action</i>
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Diversity Program Administrator	
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- | | |
|--|---|
| | <ol style="list-style-type: none">1. Receives written complaint from USDOJ or via their designee.2. Analyzes complaint to determine jurisdiction.3. Assigns case to appropriate Human Resource Consultant for action. |
|--|---|

Secretary Senior	
-------------------------	--

- | | |
|--|---|
| | <ol style="list-style-type: none">1. Receives written complaint, stamps date, logs receipt, prepares case file.2. Provides copy of complaint to Human Resource Consultant. |
|--|---|

Human Resource Consultant	
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	<p>For complaints filed against the Washington State Department of Transportation (WSDOT):</p>
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- | | |
|--|---|
| | <ol style="list-style-type: none">1. Contact the appropriate administrative officer to coordinate the department's response.2. Schedule interview with respondent within 15 days or receipt of complaint.3. Review complaint with respondent. Obtain respondent's input as to the department's position.4. Obtain documentation (if any) supporting department's response. |
|--|---|

5. Interview additional witnesses, if necessary, to confirm department's response.
6. Prepare department's response for review and approval of Diversity Program Administrator (DPA) and appointing authority.
7. If investigator believes a cause finding will be determined:
 - a. Notify DPA, department Risk Manager, and appointing authority of reasons for a cause finding. Recommend mediation be requested.
 - b. Contact USDOJ to arrange for mediation. Ensure appointing authority and DPA attend. If settlement may include compensation, ensure the department's Risk Manager attend.
8. If no cause is determined transmit department's response to USDOJ or their designee.
9. After USDOJ assigns an investigator, act as department liaison to coordinate investigation.
10. Attend all interviews involving department managers and supervisors.
11. Provide USDOJ or their designee with all requested documentation.
12. If notified by USDOJ that the investigator is going to issue a cause finding, request time to discuss with department management and arrange for a pre-finding settlement offer.
13. Coordinate settlement efforts with department Risk Manager and USDOJ.

Diversity Program Administrator

1. Reviews and approves/modifies recommendations from HRC.
2. Provides input to the department Employee Relations Manager as to case facts and settlement recommendations.

Human Resource Consultant

1. Finalizes complaint file. Ensures all required documentation is in place.
2. Notifies appointing authority of final outcome of complaint. Provides copies of USDOJ documentation as required.
3. Closes case file and returns to Secretary Administrative for archiving.

For complaints filed against local agencies:

1. Notifies Assistant Secretary, Highways and Local Programs Service Center, of receipt of complaint.
2. Prepares transmittal letter to local agency requesting their response within 30 days.
3. Provide assistance to local agency, if needed, in preparing response.
4. Review local agency response to determine if complaint has been answered and what corrective actions, if required, are being accomplished.
5. Forward local agency response to USDOJ with WSDOT recommendation.

12:P65:DP/EODM

It is the policy of the department to provide reasonable accommodation for its communication of services, programs, or activities to persons with disabilities and to provide written materials in alternative format when requested.

This chapter provides guidance to departmental employees for complying with the Americans with Disabilities Act (ADA) of 1990 requirements as they pertain to communications with the public including:

- A. Publications and documents.
- B. Telecommunications.
- C. Public meetings.

All organization/office managers are to familiarize themselves with the accessibility requirements of this chapter to ensure communication of their services, programs, or activities is made accessible to persons with disabilities.

All complaints received for failure to comply with ADA requirements or to provide accommodation are to be forwarded to the Office of Equal Opportunity (OEO).

Procedures for publications and documents produced by the department are described in Appendix 1.

Procedures for departmental telecommunications are described in Appendix 2.

Procedures for departmental sponsored public meetings are described in Appendix 3.

13:P65:DP/EODM

It is the policy of the department that reasonable accommodation will be made to provide persons with disabilities equal access to its facilities, programs, and services by providing written communications in alternate forms when specific preferences are requested in advance.

Primary Consideration

The department will provide written material in commonly used alternate formats. Consideration will be provided for individuals needing a different format.

Effective Communication

The particular needs of the person requesting the communication in alternate form, or auxiliary aid or service, must be considered to determine if the alternate means of communication is effective.

Undue Burden

The department provides the best means of communication available that will not entail undue burden or fundamental alteration in the nature of the program, service, or activity.

Questions about whether or not a request imposes an undue burden will be handled according to department policy.

Notice

The following statement will be included at the beginning of all department documents and publications:

“Persons with disabilities may request this information be prepared and supplied in alternate formats by calling the Washington State Department of Transportation ADA Accommodation Hotline collect 206-389-2839. Persons with hearing impairments may access Washington State Telecommunications Relay Service (TTY) at 1-800-833-6388, or Tele-Braille at 1-800-833-6385, or Voice at 1-800-833-6384, and ask to be connected to 360-705-7097.”

Alternate Formats

Providing print communications in alternate forms includes options such as large print, Braille, audio cassette, computer disk, interpreter, reader, or other preference selected by a person with a disability.

Receiving Requests

A trained representative of the Office of Equal Opportunity (OEO) receives all alternate format requests in person, in writing, or over the telephone. All requests must include the name of a point of contact with the telephone number, the applicable organization code and charge code, and a date not later than date.

Request Referrals

OEO forwards detailed information on each requested accommodation to the person coordinating the affected program, service, or activity as soon as possible, but not more than 24 hours after receiving the accommodation request.

Request Responses

The Regional Human Resource Consultant will coordinate alternate formatted documents and publications that are required through the agency Americans with Disabilities Act Coordinator. Resources designated by OEO will prepare the request for alternate formatted documents and publications.

Time Requirements

Under most circumstances, the department requires a minimum lead time of two weeks. Long and complex documents, or multiple document packets, may require more time for preparation.

Language and Pictures

Managers and supervisors will prohibit offensive or demeaning language and pictures portraying people with disabilities in department print communications.

Signage

The department will provide program, activity, or service signage according to standards recommended by the Washington State Governor's Committee on Disability Issues and Employment. (See "Accessible Meetings in Washington State Planning and Resource Guide" published by the Governor's Committee on Disability Issues and Employment, P.O. Box 9046, MS: 6000, Olympia, Washington 98507-9046.)

Public Information Dissemination

The department will disseminate public information announcements by using the services provided by the Evergreen Radio Reading Service, Washington Library for the Blind and Physically Handicapped, 821 Lenora, Seattle, Washington 98129, 1-800-833-6388, the department's TTY relay service, or other appropriate means.

Alternate Format Guidelines

The department will adhere to the guidelines provided by the Governor's Committee on Disability Issues and Employment publication entitled "Producing Materials in Alternate Formats." For more information, contact OEO at 360-705-7097.

Reasonable accommodation shall be made to provide access to all departmental programs and services available to the public by telephone.

Telecommunication Devices

The department will use the Washington State Department of Transportation TDD Relay Service (TTY) for telecommunications with hearing impaired individuals.

Telephone Number References

To provide for effective telecommunication with persons having hearing or speech impairments, TTY numbers are to be included in agency directories, pamphlets, brochures, letterhead, posters, radio announcements, etc., using the following statement:

“Persons with disabilities may request this information be prepared and supplied in alternate formats by calling the Washington State Department of Transportation ADA Accommodation Hotline collect 206-389-2839. Persons with hearing impairments may access Washington State Telecommunications Relay Service (TTY) at 1-800-833-6388, or Tele-Braille at 1-800-833-6385, or Voice at 1-800-833-6384, and ask to be connected to 360-705-7097.”

Toll Free “800” or Other Public Information Services

Whenever “800” toll free numbers (e.g., ferry schedule information, aeronautics information, etc.), or other public information phone services (e.g., SNO-LINE, region project status, etc.) are provided, advertising notices, posters, or other announcements are to also include the TRS numbers, as shown in Telephone Number References section above.

13:P65:DP/EODM

All public hearings, meetings, and events held by the department shall be conducted in facilities or locations that are accessible to all persons with disabilities unless to do so would impose an undue financial or administrative burden. To ensure effective communication with persons with disabilities who may attend these functions, the department will provide the opportunity for advance requests for reasonable accommodation.

Providing Accessible Meeting Facilities

Sponsors of departmental public hearings, meetings, and events shall ensure meetings are held in accessible locations, unless to do so would impose an undue financial or administrative burden. Evaluation of the facilities should be done prior to the activity using the state's "Accessible Meetings in Washington State Planning and Resource Guide." A copy should be available from the region/service center personnel officer, or contact the Office of Equal Opportunity (OEO).

Giving Notice to the Public

All written notices or announcements of departmental sponsored public hearings, meetings, and events are to provide information apprising individuals with disabilities of the availability of auxiliary aids and services. The following statement is to be used:

"Individuals requiring reasonable accommodation may request written materials in alternate formats, sign language interpreters, physical accessibility accommodations, or other reasonable accommodation by contacting the event sponsor (enter name of event sponsor and phone number), usually 2 weeks before meeting's date (insert date). Persons with hearing impairments may call Washington State Telecommunications Relay Service (TTY) at 1-800-833-6388, or Tele-Braille at 1-800-833-6385, or Voice at 1-800-833-6384, and ask to be connected to the event sponsor's phone number."

Such requests will be documented on the Public Request for Reasonable Accommodation Form (Appendix 4).

Provision of Auxiliary Aids or Services

Sponsors of departmental public hearings, meetings, and events are to make available appropriate auxiliary aids and services, where reasonable, to provide effective communications with persons with disabilities. Auxiliary aids are defined in the definition section of this document. For assistance regarding auxiliary aids, contact OEO.

Choice of Auxiliary Aid Service

The sponsor will provide an opportunity for persons with disabilities to request auxiliary aids and/or services of their choice. Priority is to be given to an individual's expressed choice for a particular aid or service, unless the means chosen would require an undue financial or administrative burden, or an equally effective auxiliary aid can be provided. An extra charge may not be imposed on an individual with a disability for the use of an auxiliary aid.

Advance Preparation Requirements

Sponsors requiring Communications and Public Involvement Office (CPI) services to produce a meeting announcement or notice, are to contact the CPI no less than four weeks prior to the function. This will allow sufficient time to notify the public through the media and provide a reasonable response time for individuals needing special accommodations. Providing necessary accommodation is the responsibility of the sponsor.

Special accommodation in the form of alternative formats for written materials should be handled per Appendix 1.

Complaints

Complaints about reasonable accommodation should be directed to OEO at 360-705-7095.

13:P65:DP/EODM



**Washington State
Department of Transportation**



**Public Request for
Reasonable Accommodation**

Use this form to request accommodation for department programs, services, or activities.

Print Materials

Do you know the title(s) of specific publications that you want? Yes ☐ No ☐

If yes, please specify the title(s)

If no, what information can you provide to help us identify the requested documents or publications? For example,

Source of information _____

Location seen or reference provided _____

Subject matter _____

Other leads _____ (Attach additional information on separate paper if needed)

What alternate format do you prefer? (Indicate first, second, third choice if possible)

- ☐ Large print ☐ Reader
☐ Braille ☐ Computer disk
☐ Cassette tape(s) ☐ Other (please specify) _____

Other Communication Requirements

Do you need a reader? Yes ☐ No ☐

Do you need a certified sign language interpreter? Yes ☐ No ☐ If yes, specify preference Visual ☐ Tactile ☐

Do you have other communication requests?

- ☐ Transcripts ☐ Video tape displays
☐ Television captioning ☐ Assistive listening headset
☐ Other (please specify) _____

Other Types of Assistance

- ☐ Wheelchair-accessible hotel/motel or meeting room
☐ Hotel/motel or meeting room close to elevator or lobby
☐ Nonsmoking guest room
☐ Special assistance in evacuating facilities or notification in case of emergency

Please explain _____

- ☐ Other (transportation from airport, tour transportation, straight back chair, etc.) _____

Requestor's name _____
Address _____ City _____ State _____ Zip _____
Telephone: Home () _____ Work () _____
Request received by _____ Date _____
(print name)
Forwarded to _____ Date _____
(print name)
Date needed _____

White copy to OEO

Yellow copy for program file

DOT 731-005X

Policy Statement

The Washington State Department of Transportation (WSDOT) assures that no person shall on the grounds of race, color, national origin, or sex as provided by Title VI of the Civil Rights Act of 1964, and the Civil Rights Restoration Act of 1987 (P.L. 100.259) be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity. WSDOT further assures every effort will be made to ensure nondiscrimination in all of its programs and activities, whether those programs and activities are federally funded or not.

In the event WSDOT distributes federal aid funds to another governmental entity, WSDOT will include Title VI language in all written agreements and will monitor for compliance.

WSDOT's Office of Equal Opportunity (OEO), External Civil Rights Branch (ECRB), is responsible for initiating and monitoring Title VI activities, preparing required reports and other WSDOT responsibilities as required by 23 Code of Federal Regulation (CFR) 200 and 49 Code of Federal Regulation 21.

Douglas B. MacDonald
Secretary of Transportation

Date

Authorities

Title VI of the 1964 Civil Rights Act provides that no person in the United States shall, on the grounds of race, color, national origin, or sex be excluded from participation in, be denied the benefits of or be otherwise subjected to discrimination under any program or activity receiving federal financial assistance (please refer to 23 CFR 200.9 and 49 CFR 21).

Civil Rights Restoration Act of 1987 broadened the scope of Title VI coverage by expanding the definition of terms "programs or activities" to include all programs or activities of Federal Aid recipients, subrecipients, and contractors, whether such programs and activities are federally assisted or not (Public Law 100259 [S. 557] March 22, 1988).

Additional Authorities and Citations Include:

Title VI of the Civil Rights Act of 1964, 42 United States Code 2000d to 2000-4; 42 United States Code 4601 to 4655; 23 United States Code 109(h); 23 United States Code 324; Department of Transportation Order 1050.2; Executive Order 12250; Executive Order 12898; 28 Code of Federal Regulations 50.3

Organization and Staffing — General

The Secretary of the Washington State Department of Transportation (WSDOT) is responsible for ensuring the implementation of the department's Title VI programs. The Director of the OEO, on behalf of the Secretary, is responsible for the overall management of the Title VI programs. The day-to-day administration of the program lies with the Title VI Coordinator (hereafter referred to as "Coordinator") under the direct supervision of the Manager of the ECRB (see Figures 1 and 2.)

Title VI Coordinator Responsibilities

The Title VI Coordinator is charged with the responsibility for implementing, monitoring, and ensuring WSDOT's compliance with Title VI regulations. Title VI responsibilities are as follows:

1. Process the disposition of Title VI complaints received by WSDOT.
2. Collect statistical data (race, color, sex, and national origin) of participants in, and beneficiaries of state highway programs, i.e., relocatees, impacted citizens, and affected communities. Review Environmental Impact Statements for Title VI and Environmental Justice compliance.
3. Conduct annual Title VI reviews of special emphasis program areas (right of way, planning, design, etc.) to determine the effectiveness of program activities at all levels.
4. Conduct Title VI reviews of cities, counties, consultant contractors, suppliers, universities, colleges, planning agencies, and other recipients of federal aid highway funds.
5. Review state program directives in coordination with Title VI liaisons for special emphasis program areas and, where applicable, include Title VI language and related requirements.
6. Conduct training programs on Title VI and related statutes for state program officers, civil rights officials, and WSDOT subrecipients of federal funds.
7. Prepare the annual Title VI update report presenting the accomplishments for the past year and goals for the next year.
8. Develop Title VI information for dissemination to the general public and, where appropriate, in languages other than English.
9. Conduct post-grant approval reviews of state programs and applicants for compliance with Title VI requirements; i.e., highway location, design and relocation, and persons seeking contracts with the state.
10. Identify, investigate and eliminate discrimination when found to exist.
11. Establish procedures for promptly resolving deficiency status and reducing to writing the remedial action agreed to be necessary, all within a period not to exceed 90 days.
12. Provide technical assistance to subrecipients in the development of their Title VI Plan and assurances.

Title VI Liaison

In addition to the Coordinator, each of the special emphasis program areas listed below, shall have designated a Title VI liaison. The liaison shall be responsible for ensuring compliance, program monitoring, reporting, and education within their respective programs.

Research
Planning
Construction and Maintenance
Environmental Affairs
Consultant Services
Design Management
Education and Training (Staff Development)
Right of Way (Real Estate Services)
Highways and Local Programs Service Center
WSDOT Regional Offices
Washington State Ferries (WSF)

The Coordinator meets quarterly with all the Title VI liaisons to discuss issues regarding program implementation and compliance monitoring within WSDOT.

The OEO has given Title VI collateral duties to specifically one of its regional Human Resources Consultants under its Internal Civil Rights Branch. This individual will assist the Coordinator in the investigation of Title VI complaints, compliance reviews and approval of compliance documents from WSDOT subrecipients of federal funds.



Washington State
Department of Transportation

Citizens of Washington State

Governor Gary Locke

Washington State Transportation Commission

Ed Barnes
Aubrey Davis

Connie Niva, Chair
Tom Green
George Karglanis

A. Michele Maher
Christopher Mair

Sid Morrison

Date

Attorney General
William L. Williams
Chief Counsel

Secretary
Sid Morrison

Audit Office
Wayne Donaldson

Equal Opportunity Office
Brenda Richardson

Ombudsman
Robin Rettew
Janette Ingham

Deputy Secretary for Operations
Gerald E. Smith

Deputy Secretary for Policy
Gretchen P. White

Eastern Region
Jerry Lenzi

North Central Region
Don Senn

Northwest Region
John Okamoto

Olympic Region
Gary Demich

South Central Region
Leonard Pittman

Southwest Region
Don Wagner

Aviation Division
Bill Brubaker

Environmental and Engineering Service Center
Don Nelson

Field Operations Support Service Center
John Conrad

Highways and Local Programs Service Center
Paula Hammond

Public Transportation and Rail Division
Jim Slakey

Washington State Ferries
Paul Green

Communications and Public Involvement Office
Lynn Lampe

Finance and Administration Service Center
Helga Morgenstern

Governmental Liaison Office
Rick Daniels
Don Griffith

Human Resource Office
Adrienne Sanders

Organizational Development Services
Cindy Colvin

Planning and Programming Service Center
Jim Toohey

Transportation Economic Partnerships Office
Jerry Ellis

November 1999

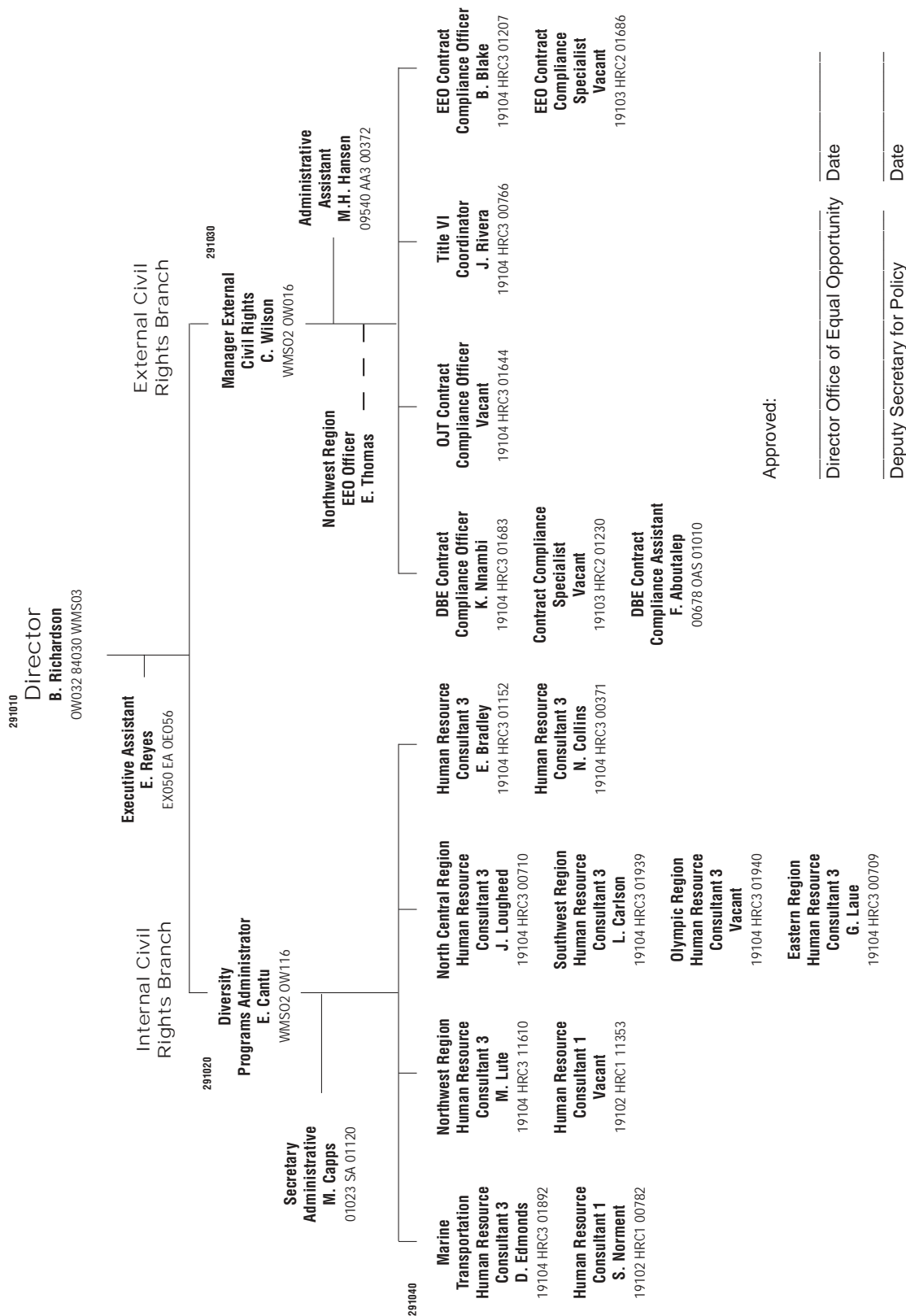
1:P65:DP/OC

Figure 1



Washington State
Department of Transportation

Office of Equal Opportunity



November 2000

4:P65:DP/OC

Figure 2

Program Administration — General

OEO shall be responsible for coordinating the overall administration of the Title VI program, plan, and assurances (see Addendum 1). The Title VI Coordinator, under the direct supervision of the ECRB Manager located in the ECRB of the office, will be responsible for the program day-to-day administration.

A. Complaints

If any individual believes that s/he or any other program beneficiaries have been subjected to unequal treatment or discrimination in their receipt of benefits and/or services, or on the grounds of race, color, national origin, income, sex, or disability, s/he may exercise their right to file a complaint with WSDOT. Every effort will be made to resolve complaints informally at the regional/division, subrecipient, and contractor's level (see Addendum 2).

B. Data Collection

Statistical data on race, color, national origin and sex of participants in, and beneficiaries of WSDOT programs, e.g., relocatees, impacted citizens, and affected communities, will be gathered and maintained by OEO for the department. Each of the Title VI special emphasis program areas will maintain data to be incorporated in the Title VI Annual Update. The data gathering process will be reviewed regularly to ensure sufficiency of the data in meeting the requirements of the Title VI program administration.

C. OEO's Title VI Program Reviews

OEO's Title VI Program reviews will be performed by the Title VI Coordinator to assess the office's administrative procedures, staffing, and resources available for Title VI compliance.

D. WSDOT Annual Reviews

All special emphasis programs will be reviewed with the Title VI liaisons annually to assure effectiveness in their compliance of Title VI provisions. This is in addition to the day to day monitoring. Title VI Coordinator and program representatives will coordinate efforts to ensure the equal participation in all their programs and activities at all levels.

E. Title VI Reviews on Subrecipients

Conduct Title VI compliance reviews annually in coordination with the Highways and Local Programs Service Center. Priority for conducting reviews will be given to those local governments, the Metropolitan Planning Organizations (MPOs), and other recipients of federal highway funds with the greatest potential of impact to those groups covered by the act. The reviews will entail examination of the recipients' adherence to all Title VI requirements. The status of each review will be reported in the annual update and the written report shared with FHWA upon completion.

F. Operational Guidelines

All operational guidelines to regions, contractors, subrecipients, and special emphasis program areas will be reviewed annually to include Title VI language and provisions and related requirements, where applicable.

G. Training Program

Title VI training will be made available at least annually to contractors, subrecipients, WSDOT special emphasis program areas and regions. The training will provide comprehensive information on Title VI provisions, its application to program operations, and identification of Title VI issues and resolution of complaints. A summary of training conducted will be reported in the annual update.

H. Annual Reports

An annual executive summary will be submitted to the Director of OEO reviewing Title VI accomplishments achieved during the year. Annual reports will be required for each of the special emphasis program areas. The Title VI Coordinator will be responsible for coordination and preparation of the report.

I. Title VI Plan Update

An annual Title VI Plan Update will be submitted to FHWA in November of each year. The update will report on any accomplishments and changes to the program occurring during the preceding year. The Update Report will also include goals and objectives for the upcoming year.

J. Public Dissemination

OEO will disseminate Title VI Program information to WSDOT employees, subrecipients, contractors, and beneficiaries as well as the general public. Public dissemination will include the posting of public statements, inclusion of Title VI language in contracts, and publishing annually the Title VI Policy Statement in newspapers having a general circulation in the vicinity of proposed projects and announcements of hearings and meetings in minority publications (see Addendum 3).

K. Post-grant Reviews

Post-grant Title VI Compliance reviews will be conducted annually on consultants and other contractors seeking contracts with WSDOT. The reviews will determine the contractor's compliance with Title VI contractual provisions. Post-grant reviews are conducted on those subrecipients that have already received WSDOT federal funds.

L. Elimination of Discrimination

Procedures will be implemented to identify and eliminate discrimination when found to exist, including, but not limited to issues of accessibility of National Highway Institute (NHI) training to all qualified WSDOT employees, utilization of Minority/Women/Disadvantaged Business Enterprises (DBE) contractors, public involvement, and property acquisition.

M. Remedial Action

WSDOT will actively pursue the prevention of Title VI deficiencies and violations and will take the necessary steps to ensure compliance with all program administrative requirements, both within WSDOT and its subrecipients of federal highway funds. When irregularities occur in the administration of the federal-aid highway program's operation, corrective

action will be taken to resolve Title VI issues. When conducting Title VI compliance reviews on its subrecipients, WSDOT will reduce to writing a remedial action agreed upon by WSDOT and FHWA to be necessary all within a period not to exceed 90 days.

WSDOT will seek the cooperation of the subrecipient in correcting deficiencies found during the review. WSDOT will also provide the technical assistance and guidance needed to aid the subrecipient to comply voluntarily.

Subrecipients placed in a deficiency status will be given a reasonable time, not to exceed 90 days after receipt of the deficiency letter, to voluntarily correct deficiencies.

When a subrecipient fails or refuses to voluntarily comply with requirements within the time frame allotted, the WSDOT will submit to the FHWA two copies of the case file and a recommendation that the subrecipient be found in noncompliance.

A follow-up review will be conducted within 180 days of the initial review to ensure that the subrecipient has complied with the Title VI Program requirements in correcting deficiencies previously identified. If the subrecipient refuses to comply, WSDOT may, with FHWA's concurrence, initiate sanctions per 49 CFR 21.

N. Procedures Manual

All day-to-day administration of the Title VI Program will be incorporated in a WSDOT-OEO Procedures Manual that will be updated regularly to incorporate changes and additional responsibilities.

Title VI Responsibilities for Special Emphasis Program Areas

Planning

A. Transportation Planning Office

The Planning Office has the responsibility to develop long- and short-range plans for WSDOT to provide efficient transportation services to the citizens of the state of Washington. The Transportation Planning Office is located within the Planning and Programming Service Center.

B. Operational Guidelines

The Metropolitan Planning Organization Procedures Manual
23 CFR 450

RCW 47.06 Statewide Transportation Planning

RCW 47.80 Regional Transportation Planning Organization (RTPO)

C. Planning Process

A comprehensive transportation planning process is used which incorporates input from the public in coordination with the various Metropolitan Planning Organizations (MPOs), and Regional Transportation Planning Organizations (RTPO). The process further entails the monitoring and collection of varied

data pertaining to transportation issues. The Transportation Planning Office coordinates with the MPO, RTPO, urban transportation planning, public involvement, and provides technical support when needed.

D. Title VI Responsibilities

- Ensure that all aspects of the planning process operation complies with Title VI.
- Ensure that participation of a cross section of various social, economic, and ethnic interest groups are represented in the planning process by disseminating program information to minority media and ethnic/gender related organizations and participating in roundtable meetings in predominantly minority communities.
- Assist the Title VI Coordinator in gathering and organizing the Planning Office portion of the Annual Title VI Update Report.
- Review the Planning Office work program, MPO Procedures Manual and other directives to ensure compliance with Title VI program requirements.
- Ensure equal participation on Citizens Advisory Committees (CAC) by requesting the MPO, or RTPO to provide information pertaining to their selection criteria for CAC members and to furnish information on membership makeup (race, gender, and position within the organization) for evaluation.
- Visit CAC meetings as well as public meetings to verify the level of participation of Title VI protected group members when offered in predominantly ethnic minority communities. Collect data on gender, race, and national origin off public forum attendees.
- Perform a minimum of two annual reviews of the MPO's and/or RTPO's work and transportation programs to ensure Title VI adherence.

Research

A. Research Office

The Research Office is responsible for the development of research projects which include not only engineering-related projects, but other areas such as transit, transportation and environmental studies, and socioeconomic analysis. The Research Office is located within the Planning and Programming Service Center.

B. Operational Guidelines

Research, Development and Technology Transfer Program Manual 23
CFR 511

C. Research Development

Projects for research are prioritized based on the department needs and availability of funding. Approximately 98 percent of all research projects are conducted by state universities and performed by graduate students under the direction of a designated research professor. The projects are regularly monitored by department program personnel.

D. Title VI Responsibilities

Ensure that all research contracts include the requirements of Appendix 1 of the Title VI Assurances.

- Ensure adherence with DBE program requirements in the granting of research contracts and nondiscrimination in the selection of grant recipients.
- Develop procedures to promote the participation of minorities and women in all aspects of a research project.
- Verify that Title VI requirements are incorporated in all contracts and agreements.
- Gather reporting data for the Annual Title VI Update Report.
- Review internal operational procedures, guidelines, directives and policies to ensure compliance with Title VI requirements.
- Monitor accomplishments and promptly correct program area deficiencies.

Design

A. Design Management Office

The Design Management Office performs studies to assess various environmental factors as they relate to project development, which include social and economic elements. The office also provides technical support to the regions during project development process. The Design Management Office is located within Environmental and Engineering Programs.

B. Operational Guidelines

Design Manual — M 22-01
Federal Aid Policy Guide for Hearings
23 CFR 771
Executive Order 12898 on Environmental Justice

C. Design Process

Economic, social, topographic, and environmental impact of a proposed project are key factors weighed in the location consideration. Federal, state, local, and departmental policies and procedures require that public hearings and/or informational meetings be held to give all citizens, including minorities, an opportunity to obtain information and express their opinions on proposed project locations. Special efforts shall be made to inform members of minority communities of public hearings and other public involvement activities. These efforts include public notices in minority newspapers and selection of accessible location and time for public hearings.

D. Title VI Responsibilities

- Ensure that all aspects of the location selection process comply with the Title VI requirements.

- Consult and seek input from affected populations.
- Develop mechanisms to identify affected populations.
- Assure public participation in the selection process.
- Provide notice of public hearings and meetings in minority newspapers and newsletters.
- Maintain required Title VI compliance documentation and statistical data on hearing attendees.
- Monitor program components for compliance with the Title VI requirements.
- Review activities associated with public hearings to enhance the participation of targeted communities.
- Develop and update operational manuals and directives to ensure the inclusion of Title VI language and provisions.
- Gather program area data to be included in the Title VI Annual Update Report.

Education and Training (Staff Development)

A. Staff Development

The Staff Development Office is under WSDOT's Office of Human Resources, Administration and Support Division. The Staff Development Office provides overall training program administration within the department, including training provided by the National Highway Institute (NHI). Staff Development is located within the Office of Human Resources.

B. Operational Guidelines

Human Resources Desk Manual (M 3009)

C. Education and Training Process

A training matrix (a list of training courses that are recommended, and in some cases required) has been established for every major job classification within the department. WSDOT managers, through the Automated Training Management System (ATMS), can access upcoming courses and register employees as training needs arise.

The training program is divided in six programs: Technical Professional Program, Maintenance Program, Safety Program, Data Processing Program, Employee Development Program, and Management Program.

D. Title VI Responsibilities

- In conjunction with managers and executives, ensure that all employees have equal access to training.
- Ensure accessibility to M/W/DBE consulting/training firms to compete for training contracts.

- Maintain program administration documentation and data necessary for preparation of Annual Title VI Update, including attendance data for NHI and Washington Management Service courses.
- Review directives and manuals to ensure the adherence with Title VI requirements.

Right of Way (Real Estate Services Office)

A. Real Estate Services Office

Real Estate Services manages and coordinates the appraisal and acquisition of real property for transportation needs, the management of excess properties, and Relocation Assistance Services. The office is a part of Environmental and Engineering Programs.

B. Operational Guidelines

Right of Way Manual

23 CFR 130

49 CFR 24

RCW Chapter 47

WAC 468.100

C. Acquisition Process

The property acquisition process follows the Right of Way Manual and all applicable laws and regulations, including Title VI. The right of way acquisition process entails appraisal of property, negotiation of terms and conditions for acquisition, and assistance in the relocation of displaced individuals, business, farm operations, and nonprofit organizations, as well as property management.

D. Title VI Responsibilities

- Ensure participation by Minority/Women/Disadvantaged Business Enterprises as identified by the Office of Minority and Women's Business Enterprises (OMWBE) in Personal Services Contracts. The contracts are typically appraisal contracts but can cover all services of real estate including negotiation, relocation, and property management.
- Ensure participation by minority/women disadvantaged business appraisers by updates to fee appraisers directories identifying minority and female appraisers.
- Apprise affected property owners, tenants, and others involved of their rights and options regarding negotiation, relocation, condemnation and other aspects of the acquisition process.
- Conduct annual implementation reviews of Title VI provisions within the entire real estate acquisition process.

- Incorporate Title VI language and assurance statements in all surveys of property owners and tenants after the conclusion of all business.
- Ensure that appraised values and communications associated with the appraisal and negotiation operations result in equitable treatment.
- Ensure comparable replacement dwellings are available and assistance is given to all displaced persons and entities by the property acquisition process.
- Coordinate the preparation of deeds, permits and leases to ensure the inclusion of the appropriate Title VI clauses (Appendices 2 and 3 to Title VI Assurances).
- Gather the statistical data required for completion of department's Annual Title VI Update Report including awards to minority and female appraisers, number of relocations, etc.

Environmental Affairs Office

A. Environmental Affairs Office

Assists the regions in integrating environmental considerations and regulatory requirements into WSDOT's transportation program. Provides technical expertise for project analyses. Develops environmental policies, procedures, manuals, and training. Works with regulatory agencies to streamline the environmental permit process. Environmental Affairs is located within Environmental and Engineering Programs.

A systematic process is used to study and evaluate all necessary environmental aspects of a proposed project, including social and economic. Depending on the scope, complexity, and impacts of the project, a National Environmental Policy Act (NEPA) Categorical Exclusion (CE), NEPA Environmental Assessment (EA), State Environmental Policy Act (SEPA) checklist, SEPA Determination of Non-significance (DNS), or NEPA and/or SEPA Environmental Impact Statement will be completed. The Environmental Affairs Office also develops agreements, guidance documents and training programs with the Regulatory and Resource Agencies.

B. Operational Guidelines

Executive Order 12898 on Environmental Justice
49 CFR 622, 635, 640, 712, 771, and 790

C. Title VI Responsibilities

- Monitor compliance with Title VI requirements in all aspects of the environmental process.
- Conduct meetings to review the project impact.
- Disseminate to the public their rights to call or write the department to view plans and discuss environmental problems.
- Coordinate the gathering of Environmental information for the Annual Title VI Update Report including awards to DBE firms.

- Notify and make accessible to affected protected group residents public meetings or hearings regarding a proposed project.
- Develop mechanisms to identify population affected by a project.
- Ensure public participation in the location selection process.
- Ensure Title VI/Environmental Justice compliance in all Environmental Impact Statements in coordination with OEO's Title VI Coordinator.

Consultant Contracts Coordination

A. Consultant Services Office

The Consultant Services Office is responsible for consultant selection, negotiation, and the administration of consultant contracts. The office is located within the Environmental and Engineering Service Center.

B. Operational Guidelines

Consultant Services Procedures Manual (M 27-50)

48 CFR 31

23 CFR 172

RCW 39.29

RCW 39.80

C. Consultant Selection Process

The Consultant Services Office operates under M 27-50, as revised, Title 23 Code of Federal Regulations Part 172, Title 48 Code of Federal Regulations Part 31, Revised Code of Washington 39.29 and 39.80. Selection of consultants is made by either the Consultant Selection Board process or from a scored and ranked register. Upon a consultant's selection, the office assists the department's project manager with negotiation and administration of the contract.

D. Title VI Responsibilities

- Monitor DBE program requirements.
- Ensure that all federally funded consultant contracts administered by the Consultant Services Office have the appropriate Title VI provisions included.
- Review directives and procedures to ensure Title VI compliance.
- Maintain necessary data and documentation required for completion of the department's Title VI Update Annual Report.
- Provide Title VI Training and assistance in the development of Title VI Plans for the Consultants.

Construction and Maintenance

A. Construction and Maintenance Offices

The Construction Office is responsible for the administration of new construction projects. The Maintenance Office is responsible for the preservation and upkeep of the state transportation system. The offices are located within the Maintenance and Operations Programs.

B. Operational Guidelines

Maintenance Manual – M 51-01

Construction Manual – M 41-01

Standard Specifications for Road, Bridge, and Municipal Construction
(Section M 41-10)

General Special Provisions for Disadvantaged Business Enterprise

General Special Provisions for Equal Employment Opportunity

C. Construction and Maintenance Process

The Maintenance Office is responsible for developing an efficient program for highway maintenance by utilizing the resources of people, equipment, and materials in the most economic way. The Construction Office sets policy and provides guidance and oversight for the decentralized administration of transportation construction projects by the regions and the regional project engineers.

D. Title VI Responsibilities

- Monitoring all maintenance operations to ensure nondiscrimination.
- Review activities and programs to assure that maintenance and construction efforts and resources are applied uniformly and fairly.
- Review all projects for application of DBE program requirements.
- Include DBE general special provisions in those projects with assigned goals.
- Include Title VI language in contract advertisements and award letters to encourage the utilization of DBE firms. Award of construction contracts shall be granted on the basis of the lowest responsive bidder including DBE requirements.
- Ensure through reviews that prime contractors with DBE requirements award previously committed work to proper DBEs and that DBEs actually perform a commercially useful function on the contracts.
- Consult DBE firms using a comprehensive questionnaire to identify possible barriers to their participation in contracts. The obtained information shall be gathered and analyzed for the elimination of such barriers.
- Assist OEO in providing supportive services to DBEs.
- Title VI language shall be included in every contract to ensure nondiscrimination in contract awards due to race or gender.
- Coordinate the gathering of maintenance and construction information regarding DBE participation for the Title VI Annual Update Report.

Highways and Local Programs Service Center

- A. The Highways and Local Programs Division has oversight responsibilities to ensure that cities, counties, and MPOs comply with the administrative requirements of Title VI. Highways and Local Programs will perform project management reviews to ensure local agencies' adherence to Title VI administrative requirements and will advise and assist local agencies in the management of Title VI complaints.

B. Operational Guidelines

Local Agencies Guidelines manual

C. Highways and Local Programs Division Operation

The Highways and Local Programs Division, through the cities and counties agreements, commits local governments to comply with all federal regulations in the administration of federally funded projects. The local governments, as with the state, must have the necessary resources to administer all aspects of the federal grant.

D. Title VI Responsibilities

- The Highways and Local Programs Division shall maintain documentation and statistical data on race, color, national origin, and sex on staff as well as participants and beneficiaries of WSDOT programs.
- Perform project management reviews to ensure local agencies' adherence to Title VI administrative requirements for special emphasis programs. A report with the findings and recommendations will be provided by the Title VI Coordinator. The report will be discussed with the local agencies for corrective action.
- Advise and assist the local agencies in the management of Title VI complaints.
- Gather program area data for the Annual Title VI Update Report.
- Assist local agencies in developing their Title VI Plan.

WSDOT Regional Offices

The regional offices have oversight responsibilities to ensure that all of their special emphasis program areas comply with Title VI requirements within the region. The regional offices will coordinate efforts with OEO and the Headquarters Title VI liaisons for Title VI compliance.

Addendum I — WSDOT Title VI Assurances

The Washington State Department of Transportation (hereinafter referred to as the “Recipient”), HEREBY AGREES THAT as a condition to receiving any federal financial assistance from the U.S. Department of Transportation, it will comply with Title VI of the Civil Rights Act of 1964, 78 Stat. 252, 42 USC 2000d—42 USC 2000d—4 (hereinafter referred to as the Act), and all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary Part 21, Nondiscrimination in Federally Assisted Programs of the Department of Transportation—Effectuation of Title VI of the Civil Rights Act of 1964 (hereinafter referred to as the Regulations), and other pertinent directives, to the end that in accordance with the Act, Regulations, and other pertinent directives, no person in the United States shall, on the grounds of race, color, sex, or national origin be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity for which the Recipient receives federal financial assistance from the Department of Transportation, including the Federal Highway Administration, and HEREBY GIVES ASSURANCE THAT it will promptly take any measures necessary to effectuate this agreement. This Assurance is required by Subsection 21.7(a)(1) of the Regulations.

More specifically and without limiting the above general assurance, the Recipient hereby gives the following specific assurances to its Federal Aid Highway Program.

1. That the Recipient agrees that each “program” and each “facility” as defined in Subsections 21.23(e) and 21.23(b) of the Regulations, will be (with regard to a “program”) conducted, or will be (with regard to a “facility”) operated in compliance with all requirements imposed by, or pursuant to, the Regulations.
2. That the Recipient shall insert the following notification in all solicitations for bids for work or material subject to the Regulations made in connection with the Federal Aid Highway Program, and in adapted form in all proposals for negotiated agreements:

The Washington State Department of Transportation in accordance with Title VI of the Civil Rights Act of 1964 and 78 Stat. 252, 42 USC 2000d—42 and Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, part 21, Nondiscrimination in federally assisted programs of the Department of Transportation issued pursuant to such Act, hereby notifies all bidders that it will affirmatively ensure that any contract entered into pursuant to this advertisement, minority business enterprises will be afforded full opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, sex, or national origin in consideration for an award.

3. That the Recipient shall insert the clauses of Appendix 1 of this Assurance in every contract subject to the Act and the Regulations.
4. That the Recipient shall insert the clauses of Appendix 2 of this Assurance, as a covenant running with the land, in any deed from the United States effecting a transfer of real property, structures, or improvements thereon, or interest therein.
5. That where the Recipient receives federal financial assistance to construct a facility, or part of a facility, the Assurance shall extend to the entire facility and facilities operated in connection therewith.
6. That where the Recipient receives federal financial assistance in the form, or for the acquisition of real property, or an interest in real property, the Assurance shall extend rights to space on, over or under such property.
7. That the Recipient shall include the appropriate clauses set forth in Appendix 3 of this Assurance, as a covenant running with the land, in any future deeds, leases, permits, licenses, and similar agreements entered into by the Recipient with other parties: (a) for the subsequent transfer of real property acquired or improved under the Federal Aid Highway Program; and (b) for the construction or use of or access to space on, over or under real property acquired, or improved under the Federal Aid Highway Program.
8. That this Assurance obligates the Recipient for the period during which federal financial assistance is extended to the program, or is in the form of, personal property, or real property or interest therein or structures or improvements thereon, in which case the Assurance obligates the Recipient or any transferee for the longer of the following periods: (a) the period during which the property is used for a purpose for which the federal financial assistance is extended, or for another purpose involving the provision of similar services or benefits; or (b) the period during which the Recipient retains ownership or possession of the property.
9. The Recipient shall provide for such methods of administration for the program as are found by the Secretary of Transportation, or the official to whom s/he delegates specific authority to give reasonable guarantee that it, other recipients, subgrantees, contractors, subcontractors, transferees, successors in interest, and other participants of federal financial assistance under such program will comply with all requirements imposed or pursuant to the Act, the Regulations, and this Assurance.
10. The Recipient agrees that the United States has a right to seek judicial endorsement with regard to any matter arising under the Act, the Regulations, and this Assurance.

THIS ASSURANCE is given in consideration of and for the purpose of obtaining any and all federal grants, loans, contracts, property, discounts or other federal financial assistance extended after the date hereof to the Recipient by the Department of Transportation under the Federal Aid Highway Program and is binding on it, other recipients, subgrantees, contractors, subcontractors, transferees, successors in interest and other participants in the Federal Aid Highway Program. The person or persons whose signatures appear below are authorized to sign this Assurance on behalf of the Recipient.

Douglas B. MacDonald
Secretary of Transportation

Date

Addendum 2 — External Complaint Procedures for Federally Assisted Programs or Activities

These procedures cover all complaints filed under Title VI of the Civil Rights Act of 1964, (including its Disadvantage Business Enterprises (DBE), Equal Employment Opportunity (EEO) and On-the-Job Training (OJT) Program Components) Section 504 of the Rehabilitation Act of 1973, Civil Rights Restoration Act of 1987, and the Americans with Disabilities Act of 1990, relating to any program or activity administered by WSDOT as they relate to subrecipients, consultants, and contractors.

Intimidation or retaliation of any kind is prohibited per Title 49, Code of Federal Regulations, Part 21.11 (c) (e).

The procedures do not deny the right of the complainant to file formal complaints with other state or federal agencies or to seek private counsel for complaints alleging discrimination. These procedures are part of an administrative process, which do not provide for any type of punitive damages compensation to the complainant.

Every effort will be made to obtain early resolution of complaints at the lowest level possible. The option of informal mediation meeting(s) between the affected parties and the Title VI Coordinator may be utilized for resolution, at each stage of the process. The investigator will make every effort to pursue a resolution of the complaint. Initial interviews with the complainant and the respondent will request information regarding specifically requested relief and settlement opportunities.

Procedure

1. Any individual, group of individuals or entity that believes they have been subjected to discrimination prohibited by Title VI nondiscrimination provisions may file a written complaint with the WSDOT's OEO. A formal complaint must be filed within 180 calendar days of the alleged occurrence. The compliant must meet the following requirements:
 - a. Complaint shall be in writing and signed by the complainant(s).
 - b. Present the date of the alleged act of discrimination (date when the complainant became aware of the alleged discrimination; or the date on which that conduct was discontinued or the latest instance of the conduct).
 - c. Present a detailed description of the issues including names and job titles of those individuals perceived as parties in the complained-of incident.
 - d. Allegations received by fax or e-mail will be acknowledged and processed. Allegations received by telephone will be reduced in writing and provided to the complainant for confirmation or revision before processing.

2. Upon receipt of the complaint, OEO will determine its jurisdiction, acceptability, need for additional information, and investigative merit of the complaint. In cases where the complaint is against one of WSDOT's subrecipients of federal highway funds, the Department will assume the jurisdiction and will investigate and adjudicate the case. Complaints against WSDOT will be referred to the Federal Highway Administration (FHWA) for proper disposition. In special cases warranting intervention to ensure equity, FHWA may assume jurisdiction and either complete or obtain services to review or investigate matters.
3. Acceptance of a complaint will be determined by:
 - a. Whether the complaint is timely filed;
 - b. Whether the allegations involve a covered basis such as race, color, national origin, gender, disability or retaliation;
 - c. Whether the allegations involve a program or activity of a Federal-aid recipient, subrecipient, or contractor; or, in the case of ADA allegations, an entity open to the public.
4. A complaint may be dismissed for the following reasons:
 - a. The complaint is untimely filed;
 - b. The complaint does not allege a basis covered by the statutes for which OEO is responsible;
 - c. The complainant does not allege any harm with regard to covered programs or statutes;
 - d. The complainant requests the withdrawal of the complaint;
 - e. The complainant fails to respond to repeated requests for additional information needed to process the complaint;
 - f. The complainant cannot be located after reasonable attempts
 - g. The complainant fails to accept reasonable resolution (reasonability to the determined by OEO) or;
 - h. The complainant has filed a legal action in Federal District Court with the same basis and issues involved in the complaint.
5. OEO has sole authority for accepting complaints for investigation. Once OEO decides to accept the complaint for investigation, the complainant and the respondent will be notified in writing of such determination within five calendar days. The complaint will receive a case number and then logged in OEO's records identifying its basis, the race, color, national origin and gender of the complainant.

In cases where WSDOT assumes the investigation of the complaint, OEO will provide the respondent with the opportunity to respond to the allegations in writing. The respondent will have 10 calendar days to furnish OEO his/her response to the allegations.

6. Within 50 calendar days of receipt of the complaint, the WSDOT's investigator* will prepare an investigative report for the ECRB Manager's review. The report shall include a narrative description of the incident, identification of persons interviewed, findings and recommendations for disposition.

*This can be WSDOT's Title VI Coordinator; the Regional Title VI Liaison or any other qualified investigator designated by OEO.

7. The investigative report and its findings will be forwarded to the Attorney General's Office (AGO) for review. The AGO will review the report and associated documentation and will provide input within 10 calendar days.
8. Any comments or recommendations from the AGO will be reviewed by the ECRB Manager. The ECRB Manager will discuss the report and recommendations with the OEO Director. The report will be modified as needed and made final for its release to FHWA.

Once WSDOT investigative report becomes final, the parties will be properly notified of the outcome and appeal rights. This will take place within 180 days from the initial acceptance of the complaint.

9. WSDOT's investigative report and a copy of the complaint will be forwarded to FHWA, Washington Division Office, within 60 calendar days of the receipt of the complaint.
10. If the complainant is not satisfied with the results of the investigation, s/he shall be advised of their rights to appeal WSDOT's determination to the FHWA — Washington Division Office, USDOT or USDOJ. Appeals must be filed within 180 days after WSDOT's final resolution. Unless new facts not previously considered come to light, reconsideration of WSDOT's determination will not be available.
11. WSDOT will serve as appealing forum to a complainant that is not satisfied with the outcome of an investigation conducted by a WSDOT subrecipient. WSDOT will analyze the facts of the case and will issue its conclusion to the appellant within 60 days of the receipt of the appeal.

Addendum 3 — WSDOT Title VI Notice to Public

WSDOT hereby gives public notice that it is the policy of the department to assure full compliance with Title VI of the Civil Rights Act of 1964, the Civil Rights Restoration Act of 1987, Executive Order 12898 on Environmental Justice, and related statutes and regulations in all programs and activities. Title VI requires that no person in the United States of America shall, on the grounds of race, color, sex, or national origin be excluded from the participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity for which WSDOT receives federal financial assistance.

Any person who believes they have been aggrieved by an unlawful discriminatory practice under Title VI has a right to file a formal complaint with the WSDOT. Any such complaint must be in writing and filed with the WSDOT Title VI Coordinator within one hundred eighty (180) days following the date of the alleged discriminatory occurrence. Title VI Discrimination Complaint Forms may be obtained from the Office of Equal Opportunity at no cost by calling (360) 705-7098.

Appendix 1

During the performance of this contract, the contractor, for itself, its assignees and successors in interest (hereinafter referred to as the “contractor”) agrees as follows:

1. Compliance With Regulations

The contractor shall comply with the Regulations relative to nondiscrimination in federally assisted programs of the Department of Transportation (hereinafter referred to as DOT), Title 49, Code of Federal Regulations, part 21, as they may be amended from time to time, (hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this contract.

2. Nondiscrimination

The contractor, with regard to the work performed by it during the contract, shall not discriminate on the grounds of race, color, sex, or national origin in the selection and retention of subcontractors, including procurement of materials and leases of equipment. The contractor shall not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the Regulations, including employment practices when the contract covers a program set forth in Appendix B of the Regulations.

3. Solicitations for Subcontracts, Including Procurement of Materials and Equipment

In all solicitations either by competitive bidding or negotiations made by the contractor for work to be performed under a subcontract, including procurement of materials or leases of equipment, each potential subcontractor or supplier shall be notified by the contractor of the contractor’s obligations under this contract and the Regulations relative to nondiscrimination on the ground of race, color, sex, or national origin.

4. Information and Reports

The contractor shall provide all information and reports required by the Regulations or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Washington State Department of Transportation or the Federal Highway Administration to be pertinent to ascertain compliance with such Regulations, orders and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish this information, the contractor shall so certify to the Washington State Department of Transportation, or the Federal Highway Administration as appropriate, and shall set forth what efforts it has made to obtain the information.

5. Sanctions for Noncompliance

In the event of the contractor’s noncompliance with the nondiscrimination provisions of this contract, the Washington State Department of Transportation shall impose such contract sanctions as it or the Federal Highway Administration may determine to be appropriate, including, but not limited to:

1. Withholding of payments to the contractor under the contract until the contractor complies, and/or;
2. Cancellation, termination, or suspension of the contract, in whole or in part.

6. *Incorporation of Provisions*

The contractor shall include the provisions of paragraphs (1) through (5) in every subcontract, including procurement of materials and leases of equipment, unless exempt by the Regulations, or directives issued pursuant thereto. The contractor shall take such action with respect to any subcontractor or procurement as the Washington State Department of Transportation or the Federal Highway Administration may direct as a means of enforcing such provisions including sanctions for noncompliance.

Provided, however, that in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, the contractor may request the Washington State Department of Transportation enter into such litigation to protect the interests of the state and, in addition, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

Appendix 2

The following clauses shall be included in any and all deeds affecting or recording the transfer of real property, structures or improvements thereon, or interest therein from the United States.

GRANTING CLAUSE

NOW, THEREFORE, the Department of Transportation, as authorized by law, and upon the condition that the state of Washington will accept title to the lands and maintain the project constructed thereon, in accordance with Title 23, United States Code, the Regulations for the Administration of Federal Aid for Highways and the policies and procedures prescribed by the Federal Highway Administration of the Department of Transportation and, also in accordance with and in compliance with all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, part 21, Nondiscrimination in federally assisted programs of the Department of Transportation (hereinafter referred to as the Regulations) pertaining to and effectuating the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252: 42 USC 2000d to 2000d—4) does hereby remise, release, quitclaim, and convey unto the state of Washington all the right, title, and interest of the Department of Transportation in and to said land described in Exhibit A attached hereto and made a part thereof.

HABENDUM CLAUSE

TO HAVE AND TO HOLD said lands and interests therein unto the state of Washington, and its successors forever, subject, however, to the covenants, conditions, restrictions and reservations herein contained as follows, which will remain in effect for the period during which the real property or structures are used for a purpose for which the federal financial assistance is extended or for another purpose involving the provision of similar services or benefits and shall be binding on the state of Washington, its successors, and assigns.

The state of Washington, in consideration of the conveyance of said lands and interests in lands, does hereby covenant and agree as a covenant running with the land for itself, its successors and assigns, that (1) no person shall on the grounds of race, color, sex, disability, national origin, age, or religion, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination with regard to any facility located wholly or in part on, over, or under such lands hereby conveyed (,) (and)* (2) that the state of Washington, shall use the lands and interests in lands so conveyed, in compliance with all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, part 21, Nondiscrimination of federally assisted programs of the Department of Transportation — Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations may be amended (,) and (3) that in the event of breach of any of the above mentioned nondiscrimination conditions, the department shall have a right to reenter said lands and

¹Reverter Clause and related language to be used only when it is determined that such a clause is necessary in order to effectuate the purpose of Title VI of Civil Rights Act of 1964.

facilities on said land, and the above described land and facilities shall thereon revert to and vest in and become the absolute property of the Department of Transportation and its assigns as such interest existed prior to this instruction.¹

Appendix 3

The following clauses shall be included in all deeds, licenses, leases, permits, or similar instruments entered into by the Washington State Department of Transportation pursuant to the provisions of Assurance 7.

The LESSEE, for himself or herself, his or her heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree as a covenant running with the land that in the event facilities are constructed, maintained, or otherwise operated on the said property described in this lease, for a purpose for which a Department of Transportation program or activity is extended or for another purpose involving the provision of similar services or benefits, the LESSEE shall maintain and operate such facilities and services in compliance with all other requirements imposed pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, part 21, Nondiscrimination in federally assisted programs of the Department of Transportation — Effectuation of Title VI of the Civil Rights Act of 1964, as said Regulations may be amended.

That in the event of breach of any of the above nondiscrimination covenants, the STATE shall have the right to terminate the lease, and to reenter and repossess said land and the facilities thereon, and hold the same as if said lease had never been made or issued.

The following shall be included in all deeds, licenses, leases, permits, or similar agreements entered into by the Washington State Department of Transportation pursuant to the provisions of Assurance 7.

The LESSEE, for himself or herself, his or her personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree as a covenant running with the land that (1) no person, on the grounds of race, color, sex, or national origin, shall be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities, (2) that in the construction of any improvements on, over or under such land and furnishing of services thereon, no person on the grounds of race, color, sex, and national origin shall be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination, (3) that the LESSEE shall use the premises in compliance with all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, part 21, Nondiscrimination in federally assisted programs of the Department of Transportation — Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations may be amended.

That in the event of breach of any of the above nondiscrimination covenants, the STATE shall have the right to terminate the lease, and to reenter and repossess said land and the facilities thereon, and hold the same as if said lease had never been made or issued.

Washington State Ferries
Title VI Requirements for Programs and Activities
related to the
Federal Highway Administration
and
Federal Transit Administration
Nondiscrimination in the Washington State Ferries
Federally Assisted Programs and Activities

Introduction

The Washington State Ferries (WSF) is a public entity that provides marine transportation services to state residents and visitors seeking mobility within the Puget Sound waters. The WSF operation is funded through a number of different state and federal funding sources, including the United States Department of Transportation (USDOT). The USDOT requires, under the authority of Title VI of the Civil Rights Act of 1964, that nondiscrimination policies and procedures be in place for a recipient of federal funds to be able to receive their financial assistance.

Title VI of the Civil Rights Act of 1964 (Title VI) and the Federal-Aid Highway Act of 1973 prohibit discrimination based on race, color, national origin, and sex in the provision of benefits and services resulting from federally assisted program and activities. WSF is considered a major recipient of USDOT (federal) funds, therefore, subject to the provisions and administrative requirements of Title VI.

The following portion of the WSDOT Title VI Plan delineates the Civil Rights responsibilities of WSF under the jurisdictions of the Federal Highway Administration and the Federal Transit Administration. Title VI implementation within the WSF operation is divided by what is called special emphasis program areas. Each program area represents a WSF operational element requiring assigned Title VI responsibilities.

WSF will share the same commitment to nondiscrimination as expressed in WSDOT's Title VI Policy signed by the Secretary of Transportation. Additionally, WSF will adhere to the provisions of the Standard DOT Title VI Assurances and Appendixes (DOT 1050.2) as adopted by WSDOT.

All Title VI complaints originated from any of the WSF special emphasis program areas will be handled according to the approved procedures presented as Addendum 2 of WSDOT's Title VI Plan.

Design

A. Terminal Design Office

The Terminal Design Office performs studies to assess various environmental factors as they relate to project development, which include social and economic elements. The office also provides technical support to the regions during project development process. The Terminal Design Office is located within the Terminal Engineering Department.

B. Operational Guidelines

Design Manual — M 22-01

Federal Aid Policy Guide for Hearings

23 CFR 771

Executive Order 12898 on Environmental Justice

C. Design Process

Economic, social, topographic, and environmental impact of a proposed project are key factors weighed in the location consideration. Federal, state, local, and departmental policies and procedures require that public hearings and/or informational meetings be held to give all citizens, including minorities, an opportunity to obtain information and express their opinions on proposed project locations. Special efforts shall be made to inform members of minority communities of public hearings and other public involvement activities. These efforts include public notices in minority newspapers and selection of accessible location and time for public hearings.

D. Title VI Responsibilities

- Ensure that all aspects of the location selection process comply with the Title VI requirements.
- Consult and seek input from affected populations.
- Develop mechanisms to identify affected populations.
- Assure public participation in the selection process.
- Provide notice of public hearings and meetings in minority newspapers and newsletters.
- Maintain required Title VI compliance documentation and statistical data.
- Monitor program components for compliance with the Title VI requirements.

Education and Training

A. Staff Development

WSF training office provides overall training program administration within WSF. This office provides training required to comply with federal, state, and international law. This office also provides other necessary training to enhance both the technical and general skills of our personnel and the safety and health of our work place. The training office also interfaces with the WSDOT Staff Development office and the Office of Human Resources to provide NHI/ engineering training, employee development, and management development training, as appropriate.

B. Operational Guidelines

Human Resources and Training Manual (SMS Manual #4)

C. Education and Training Process

A training matrix (a list of training courses that are recommended, and in some cases required) has been established for every major Washington Management System (WMS) and Merit System job classification within WSF. WSF managers, through the Automated Training Management System (ATMS), can access upcoming courses and register employees as training needs arise.

Non Merit system employees will receive training appropriate to their current job duties, their safety and health, changes in policy and procedures, and to comply with all federal, state, and international laws. The WSF training office will monitor these requirements within WSF and schedule classes when necessary.

The training program is divided in seven programs: Technical Professional Program, Maintenance Program, Safety Program, Data Processing Program, Employee Development Program, Management Program, and Marine Program.

D. Title VI Responsibilities

- In conjunction with managers and executives, ensure that all employees have equal access to training appropriate to their position or assignment.
- Ensure accessibility to M/W/DBE consulting/training firms to compete for training contracts.
- Maintaining program administration documentation and data necessary for preparation of the Annual Title VI Update, including attendance data for all formal training conducted.

Washington State Ferries Information

A. Terminal Construction and Maintenance

The Terminal Construction and Maintenance Office is responsible for contract administration, construction inspection and engineering support for non routine maintenance efforts. The office is located within the Terminal Engineering Department of Washington State Ferries.

B. Operational Guidelines

Construction Manual – M 51-01

Standard Specifications for Road, Bridge, and Municipal Construction
(Section M 41-10)

General Special Provisions for DBE

General Special Provisions for EEO

C. Construction and Maintenance process

The Terminal Construction and Maintenance Office is responsible for developing an efficient program to plan and deliver non routine terminal maintenance efforts by utilizing the resources of people, equipment, and

materials in the most economic and practical way. This office also has responsibility to follow statewide policy as well as establish and follow policy specific to the administration of terminal construction contracts.

D. Title VI Responsibilities

- Review activities and program to ensure nondiscrimination.
- Review all projects for application of DBE program requirements.
- Include Title VI general special provisions in all projects.
- Ensure thorough reviews that prime contractors will DBE requirements award previously committed work proper DBEs and that DBE actually performs a commercially useful function.
- Include Title VI language in contract advertisements and award letters to encourage the utilization of DBE firms. Award of construction contract should be granted on the basis of the lowest responsive bidder including DBE requirements.
- Assist OEO in providing support services to DBEs.
- Coordinate the gathering of maintenance and construction information regarding DBE participation for the Annual Title VI Update Report.

Vessel Maintenance

A. Vessel Maintenance

WSF's Vessel Maintenance Department has three components: The Port Engineer's Office, the Eagle Harbor Repair Facility, and Materials Management, which includes purchasing, inventory, and the warehouse. This department is responsible for developing an efficient program to provide vessel service reliability and public safety responsibility by utilizing the resources of people, equipment, and materials in the most economical way.

B. Operational Guidelines

46 CFR

33 CFR

Chapter 296-304 Washington Annotated code (WAC)

International Safety Management (ISM) Code

Safety of Life At Sea (SOLOS) 74/78 Consolidation Edition, 1992 as amended

United States coast Guard (WSCG) Navigation and Inspection

C. Maintenance Process

The Maintenance Office provides guidance and oversight for the administration of systemwide vessel maintenance projects. Preserving existing asset and providing support to Operations Department to provide consistent, safe, and reliable service to the public are the top priorities of this department.

D. Title VI Responsibilities

- Monitoring all maintenance operations to ensure nondiscrimination.

- Review activities and programs to assure that maintenance and construction efforts and resources are applied uniformly and fairly.
- Review all projects for application of DBE program requirements.
- Include DBE general special provision in those projects with assigned goals.
- Include Title VI language in contract advertisements and award letters to encourage the utilization of DBE firms. Award of construction contracts shall be granted on the basis of the lowest responsive bidder including DBE requirements.
- Assist OEO in providing supportive services to DBEs.
- Title VI language shall be included in every contract to ensure nondiscrimination in contract awards due to race or gender.
- Coordinate the gathering of maintenance and construction information regarding DBE participation for the Title VI Annual Update Report.

Planning

A. Transportation Planning Office

The Planning Office has the responsibility to develop long- and short-range plans for WSDOT to provide efficient transportation services to the citizens of the state of Washington. The Transportation Planning Office is located within Planning and Capital Program Management.

B. Operational Guidelines

The Metropolitan Planning Organization Procedures Manual
 23 CFR 450
 RCW 47.06 Statewide Transportation Planning
 RCW 47.80 Regional Transportation Planning Organization (RTPO)

C. Planning Process

A comprehensive transportation planning process is used which incorporates input from the public in coordination with the various Metropolitan Planning Organizations (MPOs). The process further entails the monitoring and collection of varied data pertaining to transportation issues. The Transportation Planning Office coordinates with the MPO urban transportation planning, public involvement, and provides technical support when needed.

D. Title VI Responsibilities

- Ensure that all aspects of the planning process operation complies with Title VI.
- Ensure that participation of a cross section of various social, economic, and ethnic interest groups are represented in the planning process by disseminating program information to minority media and ethnic/gender related organizations and participating in roundtable meetings in predominantly minority communities.

- Assist the Title VI Coordinator in gathering and organizing the Planning Office portion of the Annual Title VI Update Report.
- Review the Planning Office work program, MPO Procedures Manual and other directives to ensure compliance with Title VI program requirements.
- Ensure equal participation on Citizens Advisory Committees (CAC) by requesting the MPO to provide information pertaining to their selection criteria for CAC members and to furnish information on membership makeup (race, gender, and position within the organization) for evaluation.
- Visit CAC meetings as well as public meetings to verify the level of participation of Title VI protected group members when offered in predominantly ethnic minority communities.

Construction/Maintenance Vessel Engineering

A. Vessel Construction Offices

The Vessel Construction Office is responsible for the administration of new contracts in private shipyard construction. The Maintenance Office is responsible for the preservation and upkeep of the state transportation system. The offices are located within the Maintenance and Operations Programs.

B. Operational Guidelines

Maintenance Manual – M 51-01

Construction Manual – M 41-01

Standard Specifications for Road, Bridge, and Municipal Construction
(Section M 41-10)

General Special Provisions for DBE

General Special Provisions for EEO

C. Construction Process

The Vessel Construction Office is responsible for developing an efficient program for vessel maintenance by utilizing the resources of people, equipment, and materials in the most economic way. The Construction Office sets policy and provides guidance and oversight for the decentralized administration of vessel construction projects.

Contracts and Legal Services advertises and awards all contracts to private shipyards.

Consultant Contracts Coordination

A. Consultant Services Office

The Consultant Services Office is responsible for consultant selection, negotiation, and the administration of consultant contracts for WSF. The office is located within Environmental and Engineering Programs.

B. Operational Guidelines

Consultant Services Procedures Manual (M 27-50)

48 CFR 31

23 CFR 172

C. Consultant Selection Process

The Consultant Services Office operates under M 27-50, as revised, Title 23 Code of Federal Regulations Part 172, and the Title 48 of the Code of Federal Regulations, part 31, RCW 39.29 and 39.80. Selection of consultants is made by the Consultant Selection Board which is composed of three members for projects over \$100,000. For projects under \$100,000, two board members may be used. Upon a consultant's selection, the office shall assist the department's project manager with negotiation and administration of the contract.

D. Title VI Responsibilities

- Monitor DBE program requirements.
- Ensure that all federally funded consultant contracts administered by the Consultant Services Office have the appropriate Title VI provisions included.
- Review directives and procedures to ensure Title VI compliance.
- Maintain necessary data and documentation required for completion of the department's Title VI Update Annual Report.



Title VI Compliance Questionnaire for Local Agencies

Local Agency: _____

Date: _____

Name/Title: _____

I. Administration

A. Staff Composition and Program Administration

1. Provide breakdown of your administrative staff by race, color, national origin, sex, and their positions.

2. How many federally funded projects have you managed during the last two years? Dollar amount?

3. Have you designated an EEO Officer or Title VI Coordinator? Provide name and time in the position.

4. Do you have a Title VI Policy, Assurances and Plan in place? Provide proof of public dissemination of your Title VI policy.

B. Complaint Procedure

1. Do you have a Title VI complaint procedure for external discrimination complaints? If so, please provide a copy. To what extent is the community aware of it?

2. Have you received any Title VI related complaints during the past two years? If so, how many? What were the outcomes? Where there any Title VI complaint lodged by beneficiaries or participants? If so, explain the issues involved.
3. Do you have a Title VI Notice to Public? If so, please provide copy.

C. Training

1. Has your staff received any training (formal or informal) regarding Title VI?
2. Are you considering scheduling Title VI training sometime soon? If so, when and who will present it?

II. Planning Activities

A. Public Involvement

1. Are minority members of the community invited to participate in public hearings? How do you go about doing that?
2. Were accessible location, adequate time, and translation services considered or provided during the coordination of hearings?
3. Is the Hearing Coordinator keeping records in attendance? Is the information broken down by race, color, national origin, and sex (by visual identification)?

4. Have planning manuals, directives, guidelines, and policies been reviewed for Title VI compliance purposes?

III. Consultant Contracts Activities

1. Are Title VI assurances and provisions included on consultant contracts?
2. Are DBE goals being included and met for consultant contracts? If not, what provisions have been taken to meet them?
3. Have directives, operational procedures, guidelines, and policies been reviewed for Title VI compliance purposes?

IV. Design/Environmental Activities

1. Are minority members of the community invited to participate in public hearings? How do you go about doing that?
2. Are accessibility of locations, adequate time, and translation services considered during the coordination of hearings? Was any other effort made to promote maximum attendance by those affected by the project, including member of minority communities?
3. Is the Hearing Coordinator keeping records in attendance? Is the information broken down by race, color, national origin, sex, (by visual identification)?

4. Have location and design manuals, directives, operational procedures, guidelines, and policies been reviewed for Title VI compliance purposes?
5. Is statistical data being collected on race, color, national origin, and sex on communities affected by a construction project?

V. Right of Way Activities

1. Are DBE goals for real estate appraisers being met? If not, what provisions have been taken to help reach these goals?
2. Is Title VI language being incorporated in all acquisition, negotiation, property management communications, and contracts?
3. Are Title VI language and assurance statements being included in all surveys for property owners and tenants after the conclusion of all business?
4. Are all values and communications associated with appraisals conducted in an equitable fashion?
5. Do deeds, permits, and leases contain Title VI compliance clauses?

6. Is statistical data being gathered on race, color, national origin, and sex for all relocatees?

VI. Construction and Maintenance Activities

1. Are contractor selection procedures been reviewed to determine uniformity in their application to minority and nonminority contractors?
2. Are minority contractors and subcontractors being informed about contracting opportunities with your organization?
3. Are construction rules and regulations being applied in an equitable fashion? Have you received any complaints within the last two years?
4. Are Title VI assurances being included in all contracts, subcontracts, and material supply agreements?



Title VI Compliance Questionnaire for Planning Organizations

MPO/RTPO: _____

Date: _____

Name/Title: _____

I. Administration

A. Staff Composition and Program Administration

1. Provide breakdown of the administrative staff by position, race, color, gender, and national origin. Include organizational chart.

2. Provide makeup of the planning organization's Board of Directors by race, color, gender or national origin. Identify the voting members.

3. Describe the various programs administered by the planning organization and their funding sources.

4. Does the planning organization have an Affirmative Action Plan with respect to employment?

B. Complaint Procedure

1. Do you have a Title VI complaint procedure? To what extent is the community made aware of it?

2. Have you received any Title VI related complaints during the past two years? How many? Outcome? Any Title VI complaint lodged by beneficiaries or participants? Explain issues involved.
3. Provide copy of your complaint procedure and proof of public dissemination of Title VI policy.

C. Training

1. Has your staff received any training (formal or informal) regarding Title VI of the Civil Rights Act of 1964?
2. Are you considering to schedule Title VI training sometime soon? If so, when and who will present it?

II. Planning Process

A. Public Involvement

1. To what extent citizen participation has been provided in the transportation planning process? Any policy in that regard?
Explain.
2. Citizen Advisory Committees: How are the members selected? For how long? What is their make up in terms of race, color, national origin, sex, and position?

3. Are organizations representing minorities/disadvantaged individuals made aware of planning processes and offered the opportunity to provide input? How?
4. How are the needs of the minorities/disadvantaged persons addressed during the planning process?
5. What statistics are kept on beneficiaries of services or programs by race, religion, color, and sex?

B. Hearings

1. What statistics are kept on public hearings participation by race, religion, color, national origin, and sex (by visual identification)?
2. Are minority group concerns addressed in a timely manner? Explain process.
3. Are public meeting announcements made available in languages other than English, according to the affected minority population(s)?
4. Are accessible location (geographically and structurally), appropriate time, and translation services being planned/provided during public hearings?

C. Procurement of Contracts

1. How are the Request for Proposals (RFP) solicited? What are the requirements for submitting RFPs?
2. What kind of participation do DBE firms have in the RFP process? Are there goals or are goals included? Do you meet them?
3. Do you keep record of DBE firms during the RFP process? Provide list.
4. How does the planning organization promote the participation of qualified minority/women consultants?
5. How does the planning organization monitor consultant's adherence with Title VI requirements?
6. Provide the number, dollar value(s), and type of contract(s) used by the planning organization during the last two fiscal years. Identify contractors by race, color, national origin, and sex.
7. How many federally funded projects did you manage during the last fiscal year? Provide dollar amount for each one of them. How much of that money went to consultant contracts? DBEs?

D. Environmental Impact

1. Are minority members of the community invited to participate in public hearings pertaining to environmental issues? Are you keeping statistics on public hearing participation by race, color, national origin, and sex? Please present proof.
2. Do you have procedures for the identification of environmental impacts? How do you approach environmental issues in minority/ disadvantaged communities? Explain.
3. Are those environmental issues discussed with the affected community during public hearings? Have special provisions such as language interpreters been provided during public meetings?
4. Are these efforts documented? If so, please provide documentation.
5. Could you list the major transportation projects planned or executed during the last two years where social, environmental, economic, or demographic adverse impacts were identified? To what extent did Title VI issues appear as a consequence of a project? Describe.

ADA Coordinator

The Regional Administrative or Personnel or Affirmative Action Officer designated by a Regional Administrator to provide counsel to supervisors and appointing authorities in the region regarding the development and implementation of a reasonable accommodation. This coordination will be provided by the Office of Equal Opportunity (OEO) for Olympia Service Center divisions.

Affirmative Action

Those specific personnel steps (e.g., recruiting, hiring, upgrading) which are taken for the specific purpose of eliminating the present effects of past discrimination.

Alternate Formats

Alternate formats for print materials may include, but are not limited to, large print, Braille, audio tape cassette, computer disk, radio reading services, readers, interpreters, or other forms requested by people who are blind or vision impaired.

Appointing Authority

A person authorized in writing by proper authority to employ, promote, transfer, separate, reduce in force, and discipline other employees.

Auxiliary Aid or Service

Includes, for example, such services or devices as qualified interpreters, assistive listening headsets, written transcripts, television captioning and decoders, telecommunications devices for deaf persons (TDDs), video text displays, readers, taped texts, Brailled materials, and large print materials.

Charged Party/Respondent/Accused

The person or persons, unit or entity charged with discrimination in the Internal Discrimination Complaint.

Charging Party/Complainant

The person affected by the alleged discriminatory act(s) who initiates an Internal Discrimination Complaint.

Equal Employment Opportunity

The opportunity to obtain employment, promotions, and other benefits of employment without discrimination because of race, color, religion, sex, creed, marital status, sexual orientation, national origin, age, physical, sensory, emotional or mental disability, or status as a disabled or Vietnam-era veteran.

Equal Opportunity

A management philosophy designed to ensure all persons are free of discrimination (especially in employment) based on race, color, national origin, religion, age, disability, sex, sexual orientation, marital, or veteran status.

Definitions

Equal Opportunity Committee

A Committee charged with the responsibility of hearing reasonable accommodation appeals. The Equal Employment Committee consists of:

- Deputy Secretary for Policy, Chair.
- The Assistant Secretary or Regional Administrator from whose organization the original complaint or appeal of reasonable accommodation was filed.
- Director, Office of Equal Opportunity.
- Personnel Manager.

Essential Job Functions

The essential functions of a job are those that the individual who holds the position must be able to perform in order for the employer's business to function. These functions can be accomplished unaided or with the assistance of a reasonable accommodation. These elements are generally true of an essential function:

The position exists to perform that function.

There are no other employees available to perform that function.

A function is highly specialized, and the person in the position is hired for special expertise or ability to perform it.

It is performed on a regular basis.

Removing the function fundamentally alters the position.

Exempt Position

Any position designated as exempt from the Civil Service Law (RCW 41.06).

Harassment

A course of conduct directed at a specific person that causes substantial emotional distress in such person and serves no legitimate purpose.

Job Categories

The eight categories designated by the OFCCP for affirmative action reporting to federal agencies: Officials and administrators, professionals, technicians, protective service workers, office and clerical, paraprofessionals, skilled craft workers, and service and maintenance.

Members of Protected Groups

See Protected Group Members.

Persons With Disabilities

Those persons having physical, mental, or sensory impairments that would impede those individuals in obtaining and maintaining permanent employment and promotional opportunities. The impairments must be material, rather than slight, and static and permanent in that they are seldom fully corrected by medical replacement, therapy, or surgical means (see also WAC 356-05-260, Persons of Disability).

Persons With Disabilities

The Washington State Affirmative Action Definition (WAC 162-22-030):

A person is disabled who has a physical, mental or sensory impairment that impedes that individual in obtaining and maintaining permanent employment and promotional opportunities; and has impairments that are material rather than slight, static, and permanent, in that they are seldom fully corrected by medical replacement, therapy, or surgical means.

Physician

Any person licensed to perform one or more of the following specialties: Medicine and surgery, or osteopathic.

Position

A group of duties and responsibilities normally assigned to an employee. Such position may be filled or vacant, full or part-time, seasonal, temporary, or permanent.

Protected Group Members

Protected groups for affirmative action purposes are persons age forty and above, people with disabilities, Vietnam-era veterans, disabled veterans, women, Asians and Pacific Islanders, Blacks, Hispanics, Native Americans and Alaska Natives (see WAC 356-05-327).

Reasonable Accommodations

Any change or adjustment to a job or work environment that permits a qualified applicant or employee with a disability to participate in the job application process, to perform the essential functions of a job, or to enjoy benefits and privileges of employment equal to those enjoyed by employees without disabilities. The department must make reasonable accommodation to the known physical or mental limitations of otherwise qualified applicants or employees with disabilities unless it can show that accommodation would impose an “undue hardship” on the operation of its programs.

Register

A list of eligible names established for employment or reemployment in a class.

Sexual Harassment

A form of sexual discrimination; unwelcome sexual advances, requests for sexual favors and other conduct of a sexual nature when: (1) submission to such conduct is made, either explicitly or implicitly, a term or condition of an individual’s employment; (2) submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or (3) such conduct has the purpose or effect of unreasonably interfering with an individual’s work performance or creating an intimidating, hostile, or offensive working environment.

Undue Hardship

Significant difficulty or expense relative to the operation of the department’s programs. Where a particular accommodation would result in an undue hardship, the department must determine if another accommodation is available that would not result in an undue hardship.

Age Discrimination in Employment Act of 1967
Age Discrimination Claims Assistance Act of 1988
Americans with Disabilities Act of 1990
Civil Rights Act of 1964, Title VII
Civil Rights Act of 1991
Civil Rights Restoration Act of 1987
Civil War Era Civil Rights Act — 42 U.S.C. 1981 et seq.
Drug-Free Workplace Act of 1988
Equal Pay Act of 1963
Executive Order 11246
Federal Equal Employment Opportunity Commission, “Guidelines”
Immigration Reform and Control Act of 1986
Older Workers Benefit Protection Act of 1990
Rehabilitation Act of 1973
Vietnam Era Veterans Readjustment Act
Washington State Gubernatorial Executive Order 89-01, “Sexual Harassment”
RCW 41.06.150, “Rules of Board — Mandatory Subjects — Veterans’ Preference — Affirmative Action”
RCW 49.60, Discrimination — Human Rights Commission
WAC 356-05-260, “Persons of Disability”
WAC 356-35-010, “Disability — Reasonable Accommodation — Separation — Appeals”
WAC 356-10, “Certifications”
WAC 356-30, “Appointments — Separations”